

March 1, 2000

OLYMPIA, WASHINGTON

ISSUE 00-05



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## CITATION

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

## PUBLIC INSPECTION OF DOCUMENTS

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

## REPLICATION OF OFFICIAL DOCUMENTS

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

## CERTIFICATE

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

DENNIS W. COOPER  
Code Reviser

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## STATE MAXIMUM INTEREST RATE

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

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

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*Subscription Clerk*

# STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

## 1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following nine sections:

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- (b) **EXPEDITED REPEAL**-includes the Preproposal Statement of Inquiry that lists rules being repealed using the expedited repeal process.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

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

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

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

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

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

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

## 4. EFFECTIVE DATE OF RULES

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

## 5. EDITORIAL CORRECTIONS

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

1999 - 2000

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue Number	Closing Dates <sup>1</sup>			Distribution Date	First Agency Hearing Date <sup>3</sup>	Expedited Adoption <sup>4</sup>
	Non-OTS and 30 p. or more	Non-OTS and 11 to 29 p.	OTS <sup>2</sup> or 10 p. max. Non-OTS	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

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

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

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

<sup>4</sup> A minimum of forty-five days is required between the distribution date of the Register giving notice of the expedited adoption and the agency adoption date. No hearing is required, but the public may file written objections. See RCW 34.05.230 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;

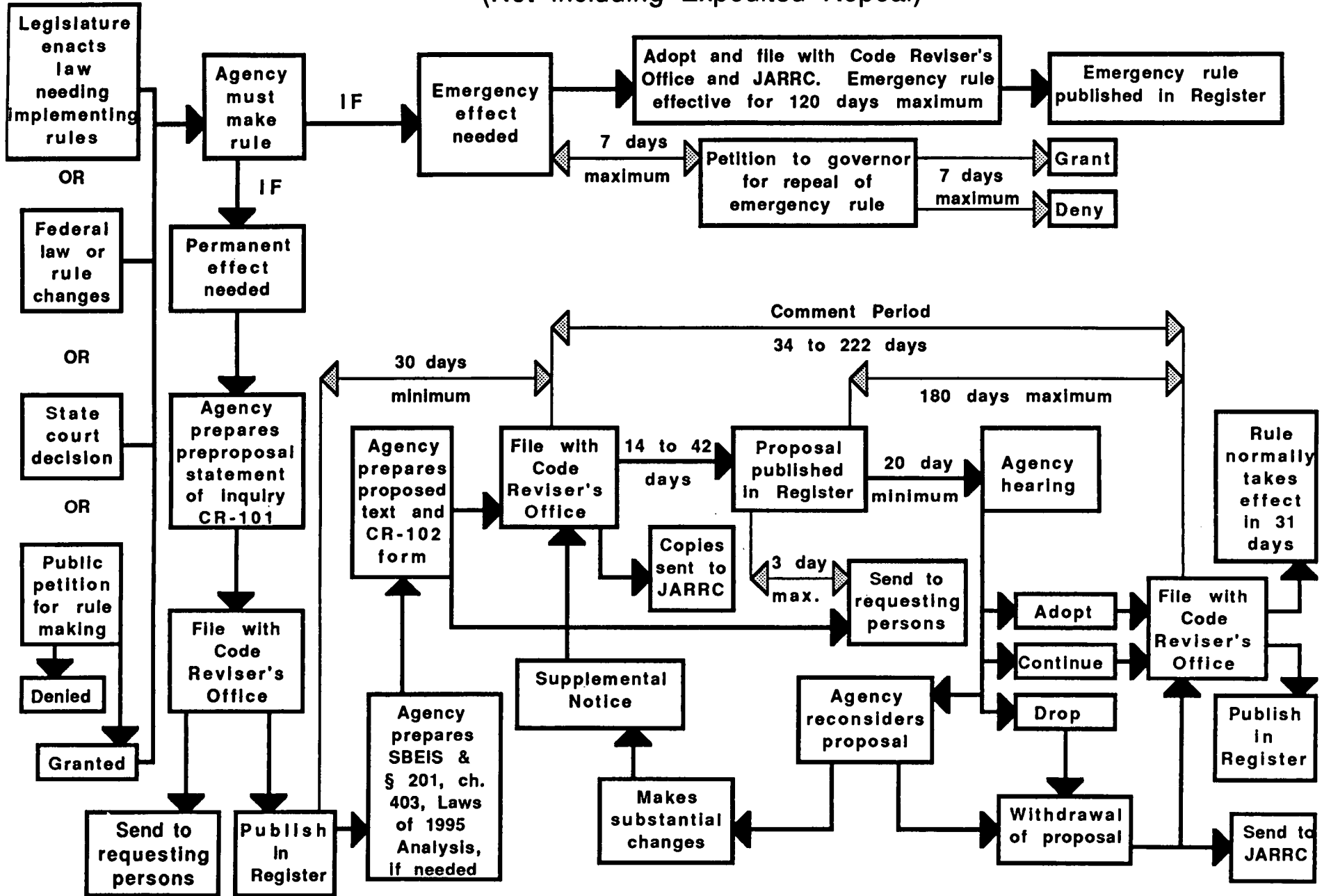
The rule REDUCES costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

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 00-05-002**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed February 3, 2000, 8:58 a.m.]

Subject of Possible Rule Making: Vocational rehabilitation—Private sector vocational provider purchasing.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.32.095, 51.04.030, 51.36.085, 51.36.100, 51.36.110.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In 1998-99, the Department of Labor and Industries (or L&I) conducted a study of its vocational purchasing practices, and concluded that the current method, contracting with private sector vocational providers, should be discontinued. In its place, the department's project consultant, William M. Mercer, Inc., recommended that the requirements of the contract be placed in WAC. In addition, other program improvements warrant significant changes to the current vocational rehabilitation, chapter 296-18A WAC. Without these rule changes, L&I will be unable to implement many of the changes needed to improve its vocational purchasing practices.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other state or federal agencies are known to regulate this subject for Washington state industrially injured or ill workers. Historically, other state agencies have relied upon, or adopted similar standards to operate other state programs not involving injured workers.

Process for Developing New Rule: L&I intends to draft a new WAC chapter to replace the existing WAC chapter pertaining to vocational rehabilitation, chapter 296-18A WAC. The old chapter will then be stricken as part of the rule-making process.

In conducting the Mercer study of vocational purchasing, the department sought input from the Vocational Technical Stakeholder Group (VTSG) and the vocational provider community on Mercer's findings and recommendations. L&I will continue to work closely with the VTSG to obtain feedback and make improvements in the proposed WAC chapter.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Blake Maresh, Senior Health Policy Analyst, Department of Labor and Industries, Health Services Analysis, P.O. Box 44322, Olympia, WA 98504-4322, phone (360) 902-6564, fax (360) 902-4249, e-mail mabl235@lni.wa.gov.

L&I will hold public hearings as part of the official rule-making process during May. At present, L&I anticipates holding four public hearings in different geographic regions around the state. This number of hearings will allow the vocational provider community, self-insured employers and employer groups, trial lawyers, business and labor, and others numerous opportunities to comment. In addition, L&I will hold monthly meetings of the VTSG, where committee members and the audience will have an opportunity to provide input on many of the proposals that will be contained in the new WAC chapter. In addition, L&I staff are communicating

via electronic mail with members of the VTSG during the development process, sharing proposals that will, in many cases, be included in the new WAC chapter. Finally, L&I staff will also be sharing its progress on all vocational improvements, including elements of the new WAC chapter, with representatives of business and labor on the Workers' Compensation Advisory Committee.

February 3, 2000

Gary Moore  
Director

**WSR 00-05-026**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Filed February 9, 2000, 11:11 a.m.]

Subject of Possible Rule Making: Commercial coastal spot prawn 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 coastal spot prawn fishery is allocated between pot and trawl harvesters. There is a gear interaction problem that needs to be addressed by allocation.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Morris Barker, Marine Resources Manager, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2826. Contact by March 24, 2000. Expected proposal filing April 5, 2000.

February 9, 2000

Evan Jacoby  
Rules Coordinator

**WSR 00-05-027**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Filed February 9, 2000, 11:13 a.m.]

Subject of Possible Rule Making: Development of an ocean fishery for sardines using trial commercial fishery permits.

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: Harvestable amounts of sardines are limited and issues of by-catch of other species are of concern. Rules will prevent overharvest of sardines, while reducing and documenting the incidence of by-catch.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Pacific Fishery Management Council (PFMC) is developing a fishery management plan which also provides estimates of the harvestable levels of sardines. This proposed activity will be complimentary to any rules and harvest levels provided to Washington coastal areas through the PFMC process.

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 Phil Anderson, Intergovernmental Policy Group, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2720. Contact by March 24, 2000. Expected proposal filing April 5, 2000.

February 9, 2000  
Evan Jacoby  
Rules Coordinator

**WSR 00-05-028**

**PREPROPOSAL STATEMENT OF INQUIRY**

**CLOVER PARK  
TECHNICAL COLLEGE**

[Filed February 9, 2000, 11:23 a.m.]

Subject of Possible Rule Making: Revised student conduct code and various technical amendments.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Technical changes needed to reflect proper addresses and titles, bring rules up to date with legislative changes. The student conduct code is in need of an update to reflect the current issues that arise, expectations for students on campus, and clarify hearing procedures.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending comments to Cherie Steele, Rules Coordinator, Clover Park Technical College, 4500 Steilacoom Boulevard S.W., Lakewood, WA 98499, phone (253) 589-5843, fax (253) 589-5851.

February 3, 2000  
N. P. Robinson  
Vice-President for  
Operations and Facilities

**WSR 00-05-030**

**PREPROPOSAL STATEMENT OF INQUIRY  
WESTERN WASHINGTON UNIVERSITY**

[Filed February 9, 2000, 11:26 a.m.]

Subject of Possible Rule Making: Control of dogs (on campus) chapter 516-52 WAC, Health and safety.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.35.120(12).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To update and bring into compliance the current wording.

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 Gloria McDonald, Rules Coordinator, Old Main 335, Mailstop 9015, Western Washington University, Bellingham, Washington 98225, phone (360) 650-3968, fax (360) 650-6197.

February 7, 2000  
Gloria A. McDonald  
Rules Coordinator

**WSR 00-05-031**

**PREPROPOSAL STATEMENT OF INQUIRY  
GAMBLING COMMISSION**

[Filed February 9, 2000, 11:41 a.m.]

Subject of Possible Rule Making: The sale and purchase of gambling equipment.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To ensure that gambling equipment is sold and purchased only by persons which hold a gambling license.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ben Bishop, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7640; Sherri Winslow, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 ext. 301; or Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 ext. 374.

Meetings at the Pasco Doubletree Hotel, 252 [2525] North 20th Avenue, Pasco, WA 99301, (509) 547-0701, on April 13 and 14, 2000; at the LaConner Country Inn, 107 South Second Street, LaConner, WA 98257, (360) 466-3101, on May 11 and 12, 2000; and at Cavanaugh's Inn at the Park,

303 West North River Drive, Spokane, WA 99202, (509) 326-8000, on June 8 and 9, 2000.

February 9, 2000  
Susan Arland  
Rules Coordinator

**WSR 00-05-034**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF CORRECTIONS**

[Filed February 10, 2000, 8:55 a.m.]

Subject of Possible Rule Making: Detainers on adult offenders.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 72.01.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The rules will contain procedures for detainers on adult offenders. The rules are essential for the safety and general welfare of the affected community. This shall serve as notice of the agency's intent to adopt rules on a permanent basis. The agency is committed to adopting permanent rules for detainers on adult offenders and is actively undertaking procedures to adopt permanent rules on the subject.

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

Process for Developing New Rule: Solicitation of comments and recommendations from interested parties and the public, and consideration of the comments and recommendations in the course of drafting rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sherri Pardue, Rules Coordinator, Department of Corrections, Rules, Contracts, and Public Disclosure Section, P.O. Box 41114, Olympia, WA 98504-1114, phone (360) 753-5770, fax (360) 664-2009.

February 9, 2000  
Joseph D. Lehman  
Secretary

**WSR 00-05-035**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF CORRECTIONS**

[Filed February 10, 2000, 8:56 a.m.]

Subject of Possible Rule Making: Visitation of correctional facilities.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 72.01.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The rules will contain procedures on the visitation of correctional facilities. The rules are essential to maintaining the safety and security within correctional facilities. This shall serve as notice of the agency's intent to adopt rules on a permanent basis. The agency is

committed to adopting permanent rules on the visitation of correctional facilities and is actively undertaking procedures to adopt permanent rules on the subject.

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

Process for Developing New Rule: Solicitation of comments and recommendations from interested parties and the public, and consideration of the comments and recommendations in the course of drafting rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sherri Pardue, Rules Coordinator, Department of Corrections, Rules, Contracts, and Public Disclosure Section, P.O. Box 41114, Olympia, WA 98504-1114, phone (360) 753-5770, fax (360) 664-2009.

February 9, 2000  
Joseph D. Lehman  
Secretary

**WSR 00-05-038**

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

(Medical Assistance Administration)

[Filed February 10, 2000, 3:21 p.m.]

Subject of Possible Rule Making: Amending chapter 388-539 WAC, Acquired immunodeficiency syndrome insurance program.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.09.757 and 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department previously filed a preproposal statement of inquiry, WSR 99-21-095, for chapter 388-539 WAC, intending merely to review the text to meet the criteria in the Governor's Executive Order 97-02. However, the review process revealed the necessity to include new standards/requirements to reflect current policy, as well as to consolidate and simplify per the Governor's Executive Order 97-02. Therefore, the department is replacing the previously filed preproposal statement of inquiry with this one that more fully explains the reasons for filing.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: DSHS is consulting with the Department of Health (DOH) to ensure clarity and consistency with DOH's rules on the subject.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting L. Mike Freeman, Regulatory Improvement Project, Medical Assistance Administration,

Olympia, Washington 98504-5533, phone (360) 725-1350, fax (360) 586-9727, e-mail freemlm@dshs.wa.gov.

February 8, 2000

Marie Myerchin-Redifer, Manager  
Rules and Policy Assistance Unit

**WSR 00-05-040**

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

[Filed February 10, 2000, 4:31 p.m.]

Subject of Possible Rule Making: Puget Sound scallop fishery licensing.

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 recent legislation designating Puget Sound commercial shrimp fisheries as limited entry fisheries will no longer allow Puget Sound scallop trawl to be licensed with a Puget Sound shrimp trawl license. An alternate license designation is needed to allow the fishery to continue.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Morris Barker, State Marine Resource Manager, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2826. Contact by April 3, 2000. Expected proposal filing April 5, 2000.

February 10, 2000

Evan Jacoby  
Rules Coordinator

**WSR 00-05-057**

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

[Filed February 15, 2000, 10:28 a.m.]

Subject of Possible Rule Making: Chapter 296-155 WAC, Safety standards for construction work and chapter 296-24 WAC, General safety and health standards.

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 is proposing to review requirements for temporary heating devices (commonly known as salamanders), with the intent of revising language to reflect current technology, rewriting for clarity, and updating requirements.

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) regulate this subject.

Process for Developing New Rule: 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 comments or giving oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Michael McCauley, Project Manager, Department of Labor and Industries, WISHA Services Division, P.O. Box 44620, Olympia, WA 98504-4620, phone (360) 902-5779, fax (360) 902-5529.

February 15, 2000

Gary Moore  
Director

**WSR 00-05-059**

**PREPROPOSAL STATEMENT OF INQUIRY  
LOTTERY COMMISSION**

[Filed February 15, 2000, 10:40 a.m.]

Subject of Possible Rule Making: Method of paying installment prizes.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The lottery is considering amending, repealing and adding new sections to Title 315 WAC to revise the date of payment for installment payment of prizes. This would include amendment of WAC 315-06-120(12).

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary Jane Ferguson, Rules Coordinator, at (360) 753-1947, fax (360) 586-6586, P.O. Box 43025, Olympia, WA 98504-3025, with any comments or questions regarding this statement of intent.

February 15, 2000

Mary Jane Ferguson  
Rules Coordinator

**WSR 00-05-073**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF REVENUE**

[Filed February 15, 2000, 3:32 p.m.]

Subject of Possible Rule Making: WAC 458-20-217 Lien for taxes.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule explains the depart-

ment's collection procedures for delinquent liabilities. It discusses the department's authority to issue tax liens (warrants) under RCW 82.32.210 and 82.32.220, and the effects of those liens. The rule also explains the personal liability for collected sales tax trust funds imposed upon certain persons by RCW 82.32.145.

The department is considering revising this rule to clarify the execution of a warrant under RCW 82.32.220, and to explain the priority of tax liens. The department also anticipates revising the rule to explain that RCW 82.32.145 imposes a personal liability upon persons in control of sales taxes collected by a limited liability company.

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

Process for Developing New Rule: Modified negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments may be submitted by mail, fax, or at the public meeting. Oral comments will be accepted at the public meeting. A preliminary draft of the proposed changes is available upon request. Written comments on and/or requests for copies of the rule may be directed to Alan R. Lynn, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 586-9040, fax (360) 664-0693, e-mail alanrl@dor.wa.gov.

Location and Date of Public Meeting: On March 22, 2000, at 10:30 a.m., Evergreen Plaza Building, 711 Capitol Way South, Compliance Conference Room, 2nd Floor.

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.

February 15, 2000  
Russell W. Brubaker  
Assistant Director  
Legislation and Policy Division

#### WSR 00-05-074

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF REVENUE

[Filed February 15, 2000, 3:34 p.m.]

Subject of Possible Rule Making: Amending WAC 458-30-200 Definitions, 458-30-275 Continuing classification upon sale or transfer of ownership of classified land, 458-30-285 Withdrawal from classification, 458-30-295 Removal of classification, 458-30-300 Additional tax—Withdrawal or removal from classification, 458-30-305 Due date of additional tax, applicable interest, and penalty upon withdrawal or removal, 458-30-310 County recording authority—County financial authority—Duties and 458-30-325 Transfers between classifications—Application for reclassification; and repealing WAC 458-30-315 County financial authority—Duties, and 458-30-350 Reclassification of lands classified under chapter 84.34 RCW prior to 1973.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 84.34.141.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These rules explain the terms used in administering the current use program authorized by chapter 84.34 RCW. They also describe the process for withdrawing or removing land from this program, reclassifying land, and the duties of the auditor and treasurer relating to current use land. Changes to the rules are needed at this time because of the 1999 legislative changes to statutes within chapter 84.34 RCW. Chapters 233 and 356, Laws of 1999, changed RCW 84.34.108 regarding conveying classified current use land and added a new exception to the collection of back taxes when land is withdrawn or removed from classification. Chapter 4, Laws of 1999 1st sp. sess., also changed RCW 84.34.108 by adding two more exceptions to the list of circumstances under which no back taxes are collected when land is withdrawn or removed from current use classification. WAC 458-30-305 is being revised to clarify the date on which back taxes are due. WAC 458-30-310 and 458-30-315, which describe the duties of county auditors and treasurers, are being consolidated into WAC 458-30-310 because the duties of the two offices overlap and are somewhat interdependent. WAC 458-30-325 is being revised to clarify how land may be moved from one classification to another within chapter 84.34 or 84.33 RCW. WAC 458-30-350 merely reiterates RCW 84.34.150 and is being repealed because it does not provide any information not set forth in the statute.

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

Process for Developing New Rule: Modified negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments may be submitted by mail, fax, or at the public meeting. Oral comments will be accepted at the public meeting. A preliminary draft of the proposed changes is available upon request. Written comments on and/or requests for copies of the rule may be directed to Kim M. Qually, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 664-0086, fax (360) 664-0693.

Location and Date of Public Meeting: On March 22, 2000, at 9:30 a.m., Evergreen Plaza Building, 711 Capitol Way South, Compliance Conference Room, 2nd Floor.

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.

February 15, 2000  
Russell W. Brubaker  
Assistant Director  
Legislation and Policy Division

**WSR 00-05-075**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**OFFICE OF THE**  
**STATE TREASURER**

[Filed February 15, 2000, 3:41 p.m.]

Subject of Possible Rule Making: State Finance Committee, rules for school bond guarantee program.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 39.38.080.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To adopt rules necessary and appropriate for the implementation and administration of chapter 39.38 RCW.

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, with school district input into the rule development process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by primary contact Gretchen D. Gale, Legal Counsel, (360) 902-9093; alternate contact Allan Martin, Acting Deputy Treasurer, (360) 902-9007, P.O. Box 40200, Olympia, WA 98504-0200.

February 16 [15], 2000

Gretchen D. Gale

Legal Counsel

**WSR 00-05-076**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**STATE BOARD OF EDUCATION**

[Filed February 15, 2000, 3:46 p.m.]

Subject of Possible Rule Making: WAC 180-79A-140 Types of certificates and 180-79A-231 Limited certificates.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The rule would create a new type of limited certificate, the intern substitute teacher certificate which would allow student teachers/interns to be substitute teachers in the absence of the classroom teacher.

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

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

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

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

February 11, 2000

Larry Davis

Executive Director

**WSR 00-05-077**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**STATE BOARD OF EDUCATION**

[Filed February 15, 2000, 3:46 p.m.]

Subject of Possible Rule Making: WAC 180-85-030 Continuing education credit hour—Definition.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The amendment would permit independent study to be included as continuing education credit hours (clock hours), thus permitting on-line instruction.

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

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

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

February 11, 2000

Larry Davis

Executive Director

**WSR 00-05-078**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**STATE BOARD OF EDUCATION**

[Filed February 15, 2000, 3:47 p.m.]

Subject of Possible Rule Making: WAC 180-78A-500 Professional certificate program approval.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The proposed amendment would clarify that only colleges and universities that have approved preparation programs for the residency certificate shall be approved to offer professional certificate programs.

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

Process for Developing New Rule: Early solicitation of public comments and recommendations respecting new,



amended or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

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

February 11, 2000

Larry Davis  
Executive Director

### WSR 00-05-088

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF TRANSPORTATION

[Filed February 16, 2000, 8:17 a.m.]

Subject of Possible Rule Making: Amending WAC 468-38-290 Farm implements.

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: Provide economic relief to the agricultural community regarding permitting of over-dimensional farm implements for movement on public roads, and regarding certain pilot/escort vehicle requirements.

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, negotiated between the Department of Transportation, Potato Commission, Wheat Growers Association, Farm Bureau, Cattlemen's Association and Legislative Transportation Committee staff, with input from the Washington State Patrol.

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.

February 16, 2000

Gerald E. Smith  
Deputy Secretary, Operations

### WSR 00-05-096

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF ECOLOGY

[Order 00-03—Filed February 16, 2000, 9:30 a.m.]

Subject of Possible Rule Making: Revision and possible consolidation of chapters 317-10 and 173-181 WAC, the vessel and facility oil spill contingency plan standards and primary response contractor standards.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 90.56 and 88.46 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Since 1991, when the rules became effective, many changes have taken place that effect how oil spill responses are conducted in Washington. These changes include new federal regulations, the development of the Northwest area contingency plan, and the establishment of the geographic response plans. Our goal is to revise the current rules to make them more consistent with changes that have occurred since they were first written, use simpler language that takes advantage of the planning that has been done, and develop rules that are more efficient by consolidating regulatory requirements.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The following agencies have similar planning requirements for the industries these rules will affect: United States Coast Guard, Environmental Protection Agency, and United States Department of Transportation. Although the federal Oil Pollution Act of 1990 has similar requirements for regulated tank vessels, facilities, and contractors, the Washington state statutes are broader and differ in significant ways so therefore simply adopting federal rules is not feasible. Rules specific to Washington are necessary. These agencies will be encouraged to join the process described below.

Process for Developing New Rule: This is not a new rule. These rules have been in effect for ten years and are now being updated to reflect changes that have occurred since the rules were adopted. Ecology will solicit input as described below and will follow the standard rule-making process required by the Administrative Procedure Act and the Regulatory Fairness Act.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Ecology will begin the process by sending out a focus sheet describing our revision process and encouraging those interested to submit their proposed changes to the present contingency planning rules. The next time we will actively seek input is after we have compiled issue statements from the comments we receive and the research we conduct. We will hold workshops and meetings to discuss these issue statements with those who have indicated interest. We will take the input we receive regarding the issue statements and use them as we draft the new rules. Once the new rules are drafted we will again hold workshops and meetings. When we have addressed all of the issues regarding our draft rules we will hold public hearings.

For more information contact Roy Robertson, Department of Ecology, Spill Program, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-7202, (360) [407-]6042 (fax), rrob461@ecy.wa.gov.

February 16, 2000

Joe Stohr  
Program Manager

**WSR 00-05-097****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF HEALTH**

[Filed February 16, 2000, 9:30 a.m.]

Subject of Possible Rule Making: Revising and combining chapter 246-323 WAC, Residential treatment facilities for psychiatrically impaired children and youth; chapter 246-325 WAC, Adult residential rehab centers and private adult treatment homes, and chapter 246-326 WAC, Alcoholism treatment facilities.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 71.12 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is revising these rules based on review findings from the Governor's Executive Order 97-02. Three separate rules already exist. The residential type care setting has similar health, safety and environmental concerns. The department intends to combine like requirements into one core chapter with separate sections addressing specific needs of each facility type.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Department of Social and Health Services, Division of Alcohol and Substance Abuse and the Mental Health Division. Representatives from both divisions will participate on the oversight committee for rule development.

Process for Developing New Rule: An oversight committee consisting of representatives from DSHS and representatives from facilities in each category will assist the department in rule development. All draft materials will be made available to constituents for a larger review audience. All comments will be taken into consideration for final rule development. Meetings are planned for March 3, May 5, July 7, and September 8.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Theresa Phillips, Rules Coordinator, Facilities and Services Licensing, P.O. Box 47852, Olympia, WA 98504, e-mail Theresa.Phillips@doh.wa.gov, (360) 705-6655, (360) 705-6654.

February 14, 2000

Mary C. Selecky

Secretary

**WSR 00-05-100****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF AGRICULTURE**

[Filed February 16, 2000, 9:46 a.m.]

Subject of Possible Rule Making: Standards, definitions and labeling requirements for red raspberries.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 69.04 RCW, Intrastate commerce in food, drugs and cosmetics and chapter 15.17 RCW, Standards of grades and packs.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule establishes definitions,

standards and labeling requirements for red raspberries that have been harvested by various means or processed for use in different products. This is to ensure that the red raspberries used in red raspberry products have been properly handled and are properly labeled.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: USDA has standards for red raspberries. The definitions and labeling standards we are adopting will be in addition to the USDA grades. They will not replace the USDA grade standards.

Process for Developing New Rule: The department will work with and seek comments from the Red Raspberry Commission, growers and processors.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Comments will be accepted for thirty days after the date of publication of this order. Please direct written comments to Verne E. Hedlund, Washington State Department of Agriculture, 1111 Washington Street, P.O. Box 42560, Olympia, WA 98504-2560 or by telephone to (360) 902-1860, fax (360) 902-2087.

February 16, 2000

Candace A. Jacobs, DVM

Assistant Director

**WSR 00-05-108****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed February 16, 2000, 11:32 a.m.]

Subject of Possible Rule Making: Repealing WAC 388-86-017 Case management services, possible other case management-related rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.09.755, 74.09.800, 74.08.090, 42 U.S.C. Section 1915(g).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is establishing a new chapter in order to concentrate all rules concerning maternity-related services in one area. Existing rules on this subject will be repealed to avoid duplication. Other case-management related rules may be identified and proposed during the rule-making process. Rules in the new chapter and any subsequently identified rules will be written to comply with the Governor's Executive Order 97-02.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Department of Health (DOH) has an interest in these rules. In order to maintain consistency, MAA will consult with DOH as these rules are developed.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting L. Mike Freeman, Regulatory Improvement Project, Medical Assistance Administration, Olympia, Washington 98504-5533, phone (360) 725-1350, fax (360) 586-9727, e-mail [freemlm@dshs.wa.gov](mailto:freemlm@dshs.wa.gov).

February 15, 2000

Marie Myerchin-Redifer, Manager  
Rules and Policy Assistance Unit

**WSR 00-05-109**

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

(Economic Services Administration)

[Filed February 16, 2000, 11:32 a.m.]

Subject of Possible Rule Making: WAC 388-310-0800 and related rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 78.08A.340(2), 45 C.F.R. 260.31, RCW 74.08.090 and 74.04.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The agency is further simplifying the support services process, uses, and suggested limits.

Process for Developing New Rule: The public and interested clients are invited to participate in the development of these rule changes. During the development process, the proposed changes will be presented to a variety of individuals and groups for discussion, posted on at least one ESA website, and mailed/e-mailed to all interested parties for review and comment. DSHS will coordinate with all interested agencies and advisory groups during the rule development and adoption process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Larry Green/Ian Horlor, 1009 College Street S.E., P.O. Box 45480, Lacey, WA 98506-5480, fax (360) 413-3482, e-mail [greenlp@dshs.wa.gov](mailto:greenlp@dshs.wa.gov)/[horloit@dshs.wa.gov](mailto:horloit@dshs.wa.gov).

February 15, 2000

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit



**NO EXPEDITED REPEALS FILED IN THIS ISSUE**

**EXPEDITED REPEAL**



**WSR 00-05-014**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**

[Filed February 7, 2000, 11:17 a.m.]

Date of Intended Adoption: March 28, 2000.

February 7, 2000

Walt Fahrer

Rules Coordinator

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-01-098.

Title of Rule: Dishonored checks.

Purpose: To clarify the collection and handling of dishonored checks for vehicle/title transaction, motor vehicle fuel tax, special fuel tax, aircraft fuel tax and reciprocity and proration.

Statutory Authority for Adoption: RCW 46.01.110, 82.36.435, 82.38.260, 82.42.040, 46.87.010(2).

Summary: Each of these sections clarifies how dishonored checks are handled and what actions the department will take in the event of a dishonored check under each circumstance.

Reasons Supporting Proposal: There has been some confusion surrounding the handling of these issues and clarification was needed.

Name of Agency Personnel Responsible for Drafting: Pat Zlateff, Highways-Licenses Building, Olympia, 902-3718; Implementation and Enforcement: Pat Zlateff and Jeff Beach, Highways-Licenses Building, Bristol Court, Olympia, 902-3718.

Name of Proponent: Department of Licensing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 308-04-020, mandatory collection of DHC fee; WAC 308-72-720, clarify DHC procedure for motor vehicle fuel taxes; WAC 308-77-290, clarify DHC procedure for special fuel taxes; WAC 308-78-100, clarify DHC procedure for aircraft fuel taxes; WAC 308-91-150, clarify DHC procedure for proportional registration fees.

Proposal Changes the Following Existing Rules: WAC 308-04-020, changes permissive language to mandatory collection of \$25 for a handling fee; and WAC 308-91-150, completely rewritten to improve clarity and to define procedures.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These are not fees for doing business, but penalty charges for dishonored checks. These charges can be avoided by not tendering checks that become dishonored.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Licensing is exempt from RCW 34.05.328.

Hearing Location: Highways-Licenses Building, 1125 Washington Street S.E., Room 107, Olympia, WA 98507-9020, on March 28, 2000, at 10 a.m.

Assistance for Persons with Disabilities: Contact Pat Zlateff by March 23, 2000, TDD (360) 664-8885, or (360) 902-3718.

Submit Written Comments to: Pat Zlateff, Title and Registration, 1125 Washington Street S.E., Olympia, WA 98507-9020, fax (360) 664-0831, by March 23, 2000.

AMENDATORY SECTION (Amending WSR 99-01-104, filed 12/17/98, effective 1/17/99)

**WAC 308-04-020 ((Reasonable)) Handling fee for dishonored checks in payment of vehicle licenses.** Whenever registrations, licenses, or permits relating to the licensing or registration of vehicles or vessels have been paid for by checks to county auditors, agents, and subagents appointed or approved by the director pursuant to RCW 46.01.140, if the check has been dishonored by nonacceptance, stop payment, or nonpayment, a handling fee, in ((an amount not to exceed)) the amount of twenty-five dollars ((may)) shall be assessed for each such instrument. County auditors, agents, and subagents, may collect restitution, and where they have collected restitution may retain the reasonable handling fee.

NEW SECTION

**WAC 308-72-720 Dishonored checks.** (1) **What will happen if my check becomes dishonored?** A dishonored check represents failure to pay motor vehicle fuel taxes, fees and/or penalties and interest when due, and the department will enforce such motor fuel licensing and taxing laws as are necessary to recover the unpaid taxes and fees when they become due and payable.

(2) **What form of payment does the department require for dishonored checks?** Any registrant who tenders a check that is subsequently dishonored by a financial institution upon which it was drawn, may be required to tender all subsequent payments in certified funds, i.e., cash, cashier's check, certified check, traveler's check, or money order.

(3) **Are there any additional fees charged for a dishonored check (DHC)?** Yes, a handling fee shall be assessed by the department for each check dishonored by the financial institution.

NEW SECTION

**WAC 308-77-290 Dishonored checks.** (1) **What will happen if my check becomes dishonored?** A dishonored check represents failure to pay special fuel taxes, fees and/or penalties and interest when due, and the department will enforce such special fuel licensing and taxing laws as are necessary to recover the unpaid taxes and fees when they become due and payable.

(2) **What form of payment does the department require for dishonored checks?** Any registrant who tenders a check that is subsequently dishonored by a financial institution upon which it was drawn, may be required to tender all subsequent payments in certified funds, i.e., cash, cashier's check, certified check, traveler's check, or money order.

(3) **Are there any additional fees charged for a dishonored check (DHC)?** Yes, a handling fee shall be

assessed by the department for each check dishonored by the financial institution.

NEW SECTION

**WAC 308-78-100 Dishonored checks.** (1) **What will happen if my check becomes dishonored?** A dishonored check represents failure to pay aircraft fuel taxes, fees and/or penalties and interest when due, and the department will enforce such aircraft fuel licensing and taxing laws as are necessary to recover the unpaid taxes and fees when they become due and payable.

(2) **What form of payment does the department require for dishonored checks?** Any registrant who tenders a check that is subsequently dishonored by a financial institution upon which it was drawn, may be required to tender all subsequent payments in certified funds, i.e., cash, cashier's check, certified check, traveler's check, or money order.

(3) **Are there any additional fees charged for a dishonored check (DHC)?** Yes, a handling fee shall be assessed by the department for each check dishonored by the financial institution.

AMENDATORY SECTION (Amending WSR 95-05-045, filed 2/10/95, effective 3/13/95)

~~WAC 308-91-150 ((Form of payment required)) Dishonored checks. (((1) Assessments for proportional registration fees/taxes due the state of Washington shall be paid in United States funds unless guaranteed payment is specifically required by the department.~~

~~(2) Any registrant who tenders a check that is subsequently dishonored by the bank or other financial institution upon whom it was drawn, may be required to tender all subsequent payments in person by cash or by cashier's check, certified check, traveler's check, or money order.~~

~~(3) A handling fee in the amount of fifteen dollars shall be assessed the drawer for each check dishonored by the bank or other financial institution upon whom it was drawn and interest on the amount of each check shall accrue from the date of dishonor at the rate of twelve percent per annum. The interest and handling fee shall be deposited into the highway safety fund.)~~ (1) What will happen if my check becomes dishonored? A dishonored check represents failure to pay proportional registration, fees and/or penalties and interest when due, and the department will enforce such proportional registration licensing and taxing laws as are necessary to recover the unpaid fees when they become due and payable.

(2) What form of payment does the department require for dishonored checks? Any registrant who tenders a check that is subsequently dishonored by a financial institution upon which it was drawn, may be required to tender all subsequent payments in certified funds, i.e., cash, cashier's check, certified check, traveler's check, or money order.

(3) Are there any additional fees charged for a dishonored check (DHC)? Yes, a handling fee shall be assessed by the department for each check dishonored by the financial institution.

**WSR 00-05-017  
PROPOSED RULES  
BATES TECHNICAL COLLEGE**

[Filed February 7, 2000, 3:15 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-01-129.

Title of Rule: Chapter 495A-121 WAC, Student rights and responsibilities.

Purpose: To delineate the rights and responsibilities of students attending Bates Technical College.

Statutory Authority for Adoption: RCW 28B.50.140(10).

Summary: Adoption of student rights and responsibilities as required for a technical college.

Reasons Supporting Proposal: Current rules on student conduct are being repealed.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Alberta Koheler, 1101 South Yakima Avenue, Tacoma, WA 98405, (253) 596-1532.

Name of Proponent: Bates Technical College, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To delineate student rights and responsibilities.

Proposal Changes the Following Existing Rules: Rule supercedes existing rule which is being repealed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Rule has no application to industry.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Bates Technical College, Board Room, 1101 South Yakima Avenue, Tacoma, WA 98405, on March 21, 2000, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Dan Eberle by March 10, 2000, (253) 596-1698.

Submit Written Comments to: Jon Thorpe, fax (253) 596-1691, by April 18, 2000.

Date of Intended Adoption: April 19, 2000.

February 7, 2000

Jon G. Thorpe

Director of

College Operations

**Chapter 495A-121 WAC**

**STUDENT RIGHTS AND RESPONSIBILITIES**

NEW SECTION

**WAC 495A-121-010 Preamble.** Bates Technical College is a two-year public institution of higher education. The college is maintained by the state of Washington for the provision of programs of instruction in higher education and related community services. Broadly stated, the purpose of the college is to provide opportunities for all who desire to pursue educational goals. Like any other institution having

PROPOSED



its own special purposes, the college must maintain conditions conducive to the effective performance of its functions. To implement this objective, it is necessary to ensure that an environment is created wherein all students may progress in accordance with their capability and intensity of interest. The responsibility to create and maintain such an environment is shared by all members of the college community: Students, faculty, staff, and administration.

### NEW SECTION

**WAC 495A-121-011 Definitions.** The definitions set forth in this section shall apply throughout this chapter. The following words and phrases shall mean:

(1) "Assembly" shall mean any activity engaged in by two or more persons the object of which is to gain publicity, advocate a view, petition for a cause, or disseminate information to any persons or group of persons.

(2) "Board of trustees" shall mean the five member board appointed by the governor of the state of Washington, District No. 28.

(3) "College" shall mean Bates Technical College, which includes the main campus, extension centers, and off-campus classes and activities.

(4) "College community" shall mean all college employees designated as members of the administration by the board of trustees and students.

(5) "College facilities" shall mean and include any or all real property controlled or operated by the college and shall include all buildings and appurtenances affixed thereon or attached thereto.

(6) "College president" shall mean the chief executive officer of the college appointed by the board of trustees.

(7) "Controlled substances" shall mean the definition of controlled substances as defined within RCW 69.50.101 as now law or hereafter amended.

(8) "Disciplinary action" shall mean and include oral warning, reprimand, probation, suspension, dismissal or any lesser sanction of any student by college officials.

(9) "Disciplinary official" shall mean the student/faculty disciplinary committee, the vice-president of student services or designee, and the president.

(10) "Drugs" shall mean a narcotic drug as defined in RCW 69.50.101 or a legend drug as defined in RCW 69.41.010.

(11) "Employee" shall mean any classified, faculty, administrator, exempt, student worker or volunteer person.

(12) "Harassment" shall mean any malicious act, which causes harm to any person's physical or mental well being.

(13) "Hate crimes" shall mean criminal acts in which victims are selected based on characteristics such as race, national origin, ethnicity, sex/gender, religion, sexual orientation or disability. Examples of behaviors that may constitute a hate crime include but are not limited to:

- (a) Threatening phone calls.
- (b) Hate mail.
- (c) Physical assault.
- (d) Threats of harm or violence.
- (e) Arson.
- (f) Vandalism.

(g) Cross burnings.

(h) Bombings and bomb threats.

(14) "Hazing" shall mean any method of initiation into a student organization or living group, or any pastime or amusement engaged in with respect to such an organization or living group that causes, or is likely to cause bodily danger or physical harm, or serious mental or emotional harm to any student or person attending a public or private institution of higher education or other postsecondary educational institution in this state.

(15) "Instructor/faculty" shall mean professional staff members who are employed by the college in a temporary, full-time, tenured or probationary position as instructor, counselor, and/or librarian for the purpose of providing support services for students.

(16) "Liquor" shall mean the definition of liquor as defined in RCW 66.04.010.

(17) "Racial harassment" shall be defined as written, oral, graphic or physical conduct relating to an individual's race, color, or national origin that is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of the individual to participate in or benefit from college's programs or activities. Examples of behaviors that constitute harassment based on race or national origin may include but are not limited to:

(a) Harassment of students because they are immigrants, speak another language, or have a foreign accent.

(b) Intimidation and implied or overt threats of physical violence motivated by race, color, or national origin.

(c) Physical acts of aggression or assault upon another, or damage to another's property that is motivated by the individual's race, color, or national origin.

(d) Depending on the circumstances and context, demeaning racial jokes, taunting, racial slurs, and derogatory racial "nicknames," innuendoes, or other negative or derogatory remarks of a racial nature or relating to national origin.

(e) Depending on the circumstances and context, graffiti and/or slogans or visual displays such as cartoons or posters depicting racial/ethnic slurs or other racially/ethnically derogatory sentiments.

(f) Criminal offenses directed at persons because of their race or national origin.

(18) "Sexual harassment" shall mean unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct directed at person because of his/her sex where:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's academic standing or employment; or

(b) Submission to or rejection of such conduct by an individual is used as the basis for academic decisions or employment affecting such individual; or

(c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or learning environment. Examples of behaviors that may constitute harassment include but are not limited to:

(i) Unwelcome verbal harassment of a sexual nature or abuse;

(ii) Unwelcome pressure for sexual activity;

(iii) Unwelcome sexually motivated or inappropriate patting, pinching, or physical contact;

(iv) Unwelcome sexual behavior or words, including demands for sexual favors accompanied by implied or overt threats concerning an individual's educational status;

(v) Unwelcome behavior, verbal or written words or symbols, directed at an individual because of gender;

(vi) The use of authority to emphasize the sexuality of a student in a manner that prevents or impairs the student's full enjoyment of educational benefits, climate or opportunities.

(19) "Student" shall mean and include any person who is enrolled at the college or is in the process of enrolling at the college.

#### NEW SECTION

**WAC 495A-121-012 Jurisdiction.** All rules in this chapter concerning student conduct and discipline apply to every student enrolled at the college whenever the student is engaged in or present at a college-related activity whether occurring on or off college facilities.

#### NEW SECTION

**WAC 495A-121-020 Student rights.** The college endorses the following rights for each student within the limitations of statutory law and college policy, which are deemed necessary to achieve the educational goals of the college.

#### NEW SECTION

**WAC 495A-121-021 Academic freedom.** (1) Students are guaranteed rights of free inquiry, expression and peaceful assembly upon and within college facilities that are generally open and available to the public.

(2) Students are free to pursue appropriate educational objectives from among the college's curricula, programs and services, subject to the limitations of RCW 28B.50.090 (3)(b).

(3) Students have the right to a learning environment, which is free from unlawful discrimination and sexual harassment.

(4) Students are protected from academic evaluation, which is arbitrary, prejudiced or capricious, and are responsible for meeting the standards of academic performance established by each of their instructors.

#### NEW SECTION

**WAC 495A-121-022 Nondiscrimination.** Students have the right not to be discriminated against on the basis of age, color, creed, disability, gender, marital status, national origin or ancestry, race, religion, sexual orientation or veteran status.

#### NEW SECTION

**WAC 495A-121-023 Due process.** Students have the right to due process. No disciplinary action may be imposed

without notice to the accused of the nature of the charges. A student accused of violating the code of conduct is entitled to procedural due process as set forth in these provisions.

#### NEW SECTION

**WAC 495A-121-024 Campus speakers.** Recognized student organizations shall have the right to invite outside speakers to speak on campus subject to the availability of campus facilities, funding and compliance with college procedures.

#### NEW SECTION

**WAC 495A-121-025 Right to assembly.** Students shall have the right of assembly upon college facilities that are generally available to the public provided such assemblies:

- (1) Are conducted in an orderly manner;
- (2) Do not unreasonably interfere with vehicular or pedestrian traffic;
- (3) Do not unreasonably interfere with classes, scheduled meetings or ceremonies or regular functions of the college;
- (4) Do not cause destruction or damage to college property.

#### NEW SECTION

**WAC 495A-121-026 Distribution of materials.** (1) Handbills, leaflets, newspapers and similar materials may be distributed free of charge by any student(s), or by members of recognized student organizations, or by college employees on or in college facilities at locations specifically designated by the vice-president of student services; provided such distribution does not interfere with the ingress or egress of persons or interfere with the free flow of vehicular or pedestrian traffic.

(2) Such handbills, leaflets, newspapers and related matter must bear identification as to the publishing agency and distributing organization or individual.

(3) All nonstudents shall register with the vice-president of student services prior to the distribution of any handbill, leaflet, newspaper or related matter. Such distribution or sale must not interfere with the flow of vehicular or pedestrian traffic.

(4) Any person or persons who violate provisions of subsections (1) and (2) of this section will be subject to disciplinary action.

#### NEW SECTION

**WAC 495A-121-027 Grievances.** Students have the right to express and resolve misunderstandings, alleged violation of a college policy, procedure or regulation or alleged inequitable treatment, or retaliation according to the stated grievance procedures set forth in these provisions.

#### NEW SECTION

**WAC 495A-121-028 Commercial activities.** College facilities will not be used for commercial solicitation, adver-

tising or promotional activities except when such activities clearly serve educational objectives, including, but not limited to, display of books of interest to the academic community or the display or demonstration of technical or research equipment, and when such commercial activities related to educational objectives and are conducted under the sponsorship or at the request of the college, or the office of the associated students of the college; provided that such solicitation does not interfere with or operate to the detriment of conducting college affairs or the free flow of vehicular or pedestrian traffic.

#### NEW SECTION

**WAC 495A-121-029 Student responsibilities.** Students who choose to attend Bates Technical College also choose to actively participate in the learning process offered by the college. The college is responsible for providing an educational environment rich in the high quality resources needed by students to attain their educational goals. In return, the college has the expectation that each student will assume responsibility to:

- (1) Become knowledgeable of and adhere to policies, practices, procedures, and rules of the college and its departments;
- (2) Practice personal and academic integrity;
- (3) Respect the dignity, rights and property of all persons;
- (4) Strive to learn from differences in people, ideas and opinions;
- (5) Participate actively in the learning process, both in and out of the classroom;
- (6) Attend all class sessions;
- (7) Participate actively in the advising process;
- (8) Develop skills required for learning (basic skills, time management and study skills);
- (9) Refrain from and discourage behaviors, which undermine the respect all Bates Technical College community members deserve;
- (10) Abide by the standards set forth in the *Code of Rights and Responsibilities*.

#### NEW SECTION

**WAC 495A-121-040 Code of conduct.** The college has special regulations regarding the conduct of the various participants in the college. Admission to the college carries with it the expectation that students will conduct themselves as responsible members of the college community.

#### NEW SECTION

**WAC 495A-121-041 Prohibited conduct.** Disciplinary action may be taken for a violation of any provision of this student code or for a violation of other college rules and regulations, which may from time to time be properly enacted or for specific prohibited conduct including, but not limited to, the following:

(1) Smoking and use of tobacco products is prohibited in all classrooms, shop areas, the library and other areas designated by college officials.

(2) Using, possessing, consuming, or being under the influence of, or selling any liquor as defined in RCW 66.04.010, in violation of law or in a manner which disrupts a college activity.

(3) Using, possessing, selling or being under the influence of any narcotic drug or controlled substance as defined in RCW 69.50.101 in a college facility or while participating in a college-related program or activity.

(4) Engaging in lewd, indecent, or obscene behavior.

(5) Where the student presents an imminent danger to college property or to himself/herself or to other students or persons in college facilities on or off campus, or to the educational process of the college.

(6) Interference by force or violence with, or intimidation by threat of force or violence, of another student, employee or visitor who is in the peaceful discharge or conduct of his/her duties or studies (RCW 28B.10.570 through 28B.10.572).

(7) Conducting or participating in an assembly, which violates the guidelines of assembly as defined and set forth in these provisions.

(8) Any forms of academic dishonesty, including cheating, falsification, plagiarism or facilitating, aiding, and abetting academic dishonesty.

(9) Forgery of or unauthorized alteration of or access to any college document, record, funds, or instrument of identification, including electronic hardware, software and records.

(10) The intentional making of false statements and/or filing of false charges against the college and/or a member of the college community.

(11) Theft from college premises and/or property; theft of property of a member of the college community on college premises; or possession of property stolen from college premises and/or a member of the college community while on college premises.

(12) Causing, or attempting to cause, physical damage to property owned, controlled or operated by the college or to property owned, controlled or operated by another person while said property is located on college facilities.

(13) Failure to comply with the direction of college employees acting in the legitimate performance of their duties.

(14) Refusal to provide positive identification and evidence of student enrollment to any college employee in the lawful discharge of said employee's duties.

(15) Possession, transportation or storage of any firearm(s), explosives, dangerous chemicals or other weapons, devices or substances which can be used to inflict bodily harm or to damage real or personal property.

(16) Falsely setting off or otherwise tampering with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or college facilities.

(17) Sexual harassment as defined and set forth in these provisions, of another student or employee.

(18) Racial harassment as defined and set forth in these provisions of another student or employee.

(19) Any repeated intentional conduct directed at another student or employee that has the purpose or effect of creating a hostile, intimidating or disruptive learning or working environment.

(20) Hazing in any form as described in RCW 28B.10.900.

(21) Illegal or attempted illegal entry of college owned or college controlled property.

(22) Violation of any computer use policies in effect on campus as well as conduct that violates the college's property rights with respect to computing resources including, but not limited to:

(a) Unauthorized copying, including:

(i) Copying college-owned or licensed software or data for personal or external use without prior approval;

(ii) Copying another computer user's software or data without permission of its owner, even if it is readily accessible by electronic means;

(iii) Knowingly accepting or using software or data which has been obtained by unauthorized means.

(b) Modifying or damaging, attempting to modify or damage computer equipment, software, databases, or communication lines without permission;

(c) Disrupting or attempting to disrupt computer operations;

(d) Invading the privacy of an individual by using electronic means to ascertain confidential information, even if an individual or department inadvertently allows access to such information;

(e) Abusing or harassing another computer user through electronic means;

(f) Using the college's computing facilities in the commission of a crime;

(g) Allowing another individual to use one's computer identity/account or using another individual's computer identity/account. This includes, but is not limited to: Logging on to the account, accessing programs, and reading or altering computer records. Computer time belongs to the college; the college is the only entity, through computing services, authorized to allocate time on the mainframe computers.

(h) Using computer services without authorization.

(23) Disruption. While students have the right to freedom of expression, including the right to dissent or protest, this expression cannot interfere with the rights of others or disrupt the processes of the college. The following conduct will not be permitted:

(a) Disruption of classes, laboratories, offices, services, meetings, or ceremonies;

(b) Obstruction of free movement of people or vehicles;

(c) Conduct which threatens harm, incites violence, or endangers the health and safety of any person;

(d) Threats of disruption, including bomb threats;

(e) Damaging, defacing or abusing college facilities, equipment, or property;

(f) Inciting others to engage in prohibited conduct.

(24) Violation of parking regulations.

(25) Other conduct. Any other conduct or action in which the college can demonstrate a clear and distinct interest, and, which substantially threatens the educational pro-

cess or other legitimate function of the college or the health or safety of any member of the college is prohibited.

#### NEW SECTION

**WAC 495A-121-042 Performance dishonesty.** (1) Honest assessment of student performance is of crucial importance to all members of the college community. It is the responsibility of the college administration and teaching faculty to provide reasonable and prudent security measures designed to minimize opportunities for acts of performance dishonesty which occur at the college.

(2) This section shall not be construed as preventing an instructor from taking immediate disciplinary action when the instructor is required to act upon such breach of performance dishonesty in order to preserve order and prevent disruptive conduct in the classroom. This section shall also not be construed as preventing an instructor from adjusting the student's grade on a particular project, paper, test, or class grade for performance dishonesty. Acts of performance dishonesty shall be cause for disciplinary action. Acts of dishonesty shall consist of, but not be limited to, the following:

(a) Any student who, for the purpose of fulfilling any assignment or task required by a faculty member as part of the student's program of instruction, shall knowingly tender any work product that the student fraudulently represents to the faculty member as the student's work, shall be deemed to have committed an act of performance dishonesty.

(b) Any student who aids or abets the accomplishment of an act of performance dishonesty as described in (a) of this subsection.

#### NEW SECTION

**WAC 495A-121-043 Classroom conduct.** Instructors have the authority to take whatever summary actions may be necessary to maintain order and proper conduct in the classroom and to maintain the effective cooperation of the class in fulfilling the objectives of the course.

(1) Any student who, by any act of misconduct, substantially disrupts any college class by engaging in conduct that renders it difficult or impossible to maintain the decorum of the faculty member's class shall be subject to disciplinary action.

(2) The instructor of each course offered by the college shall be authorized to take such steps as may be necessary to preserve order and to maintain the effective cooperation of the class in fulfilling the objectives of the course; provided that a student shall have the right to appeal such disciplinary action to the vice-president for student services.

#### NEW SECTION

**WAC 495A-121-044 Disciplinary sanctions.** Sanctions for violations of college regulations or conduct may be imposed independent of any action taken by civil authorities. In the case of minors, misconduct may be referred to parents or legal guardians. More than one sanction may be recommended. Sanctions may include, but are not limited to:

(1) "Disciplinary warning" shall mean oral notice of violation of college rules and regulations.

(2) "Reprimand" shall mean formal action after censuring a student for violation of college rules or regulations for failure to satisfy the college's expectations regarding conduct. The disciplinary official makes reprimands in writing to the student. A reprimand indicates to the student that continuation or repetition of the specific conduct involved or other misconduct will result in one or more serious disciplinary actions described below.

(3) "Disciplinary probation" shall mean formal action placing conditions upon the student's continued attendance. Notice will be made in writing, specifying the period of probation and the conditions of the probation. Disciplinary probation warns the student that any further misconduct will automatically raise the question of dismissal from the college.

(4) "Restitution" shall mean compensation for loss, damage, or injury to the appropriate party in the form of service, money, or material replacement.

(5) "Discretionary sanctions" may include, but are not limited to, work assignments, service to college or community, class/workshop attendance or other discretionary assignments such as educational interventions intended as learning experiences.

(6) "Loss of privileges" shall mean loss of specific college privileges for a specified period of time. These may include, but are not limited to, student activities or club participation.

(7) "Summary suspension" shall mean temporary dismissal from the college for a period of time during which an investigation and/or formal disciplinary procedures are pending. Summary suspension is predicated upon a reasonable belief that the student presents an imminent danger to college property, to other students, to employees of the college or is of significant disruption to the educational process.

(8) "Suspension" shall mean temporary dismissal from the college and termination of student status.

(9) "Expulsion" shall mean dismissal from the college and termination of student status.

(10) "No contact" shall mean restriction from entering specific college areas and/or all forms of contact with certain individual(s).

#### NEW SECTION

**WAC 495A-121-045 Hazing sanctions.** (1) Any student found to have violated RCW 28B.10.900 through 28B.10.902 related to hazing, by virtue of a criminal conviction or by final decision of the college president or designee, shall, in lieu of or in addition to any other disciplinary action which may be imposed under this chapter, forfeit any entitlement to state funded grants, scholarships or awards for a period of at least one full quarter.

(2) Pursuant to RCW 28B.10.902 forfeiture of state-funded grants, scholarships or awards to recipients engaged in hazing activities or impermissible conduct not amounting to hazing may continue for additional quarters, up to and including permanent forfeiture, based upon the seriousness of the violations.

(3) Pursuant to RCW 28B.10.902 any organization or association found to have knowingly permitted hazing to be conducted by its members or, by others subject to its direction or control, may be deprived of any official recognition or approval granted by the college.

#### NEW SECTION

**WAC 495A-121-046 Groups and organizations.** (1) Recognized student groups and organizations may be charged with violations of this code. Such a group or organization and its officers may be held collectively or individually responsible when violations of this code by those associated with the group or organization have received the tacit or overt consent or encouragement of the organization, its leaders, officers or spokespersons.

(2) Sanctions for group or organization misconduct may include revocation of the use of college facilities for a specified period of time or denial of recognition or funds as well as other appropriate sanctions permitted under this code. Sanctions of groups or organizations are subject to the appeal process upon request.

#### NEW SECTION

**WAC 495A-121-047 Refunds and access.** (1) Refund of fees for the quarter in which disciplinary action is taken shall be in accordance with the college's refund policy.

(2) A student suspended on the basis of conduct which disrupted the orderly operation of the campus or any facility of the college, may be denied access to all or any part of the campus or other facility.

#### NEW SECTION

**WAC 495A-121-048 Readmission after suspension or expulsion.** (1) Any student suspended from the college for disciplinary reasons will normally be readmitted upon expiration of the time period for which the suspension was issued.

(2) If the student has been expelled or feels that circumstances warrant reconsideration of a temporary suspension prior to its expiration, or if the student was suspended with conditions imposed for readmission, the student may be readmitted following approval of a written petition submitted to the vice-president for student services. Such petition must state reasons, which support a reconsideration of the matter. Before readmission may be granted, such petition must be reviewed and approved by the college president or designee.

#### NEW SECTION

**WAC 495A-121-049 Reestablishment of performance standing.** Students who have been suspended pursuant to disciplinary procedures set forth in these provisions and whose suspension, upon appeal, is found to have been unwarranted, shall be provided the opportunity to reestablish their performance and student standing to the extent possible within the abilities of the college, including an opportunity to retake examinations or otherwise complete course offerings missed by reason of such action.

NEW SECTION

**WAC 495A-121-060 Discipline.** (1) Any infractions of college rules and regulations may be referred by any student or employee to the vice-president for student services or in his/her absence, the designee. Sexual or racial harassment complaints or concerns may be directed to the vice-president for human resources.

(2) The vice-president for student services, or in his/her absence, the designee, is responsible for initiating the disciplinary proceedings for infractions of rules and regulations as outlined in the procedures. That official shall follow the appropriate procedures for any disciplinary action, which is deemed necessary relative to the alleged misconduct.

NEW SECTION

**WAC 495A-121-061 Disciplinary process—Except summary suspension.** (1) The vice-president for student services or his/her designated representative will initiate disciplinary proceedings.

(2) Any student accused of violating any provision of the rules of conduct shall be called for an initial meeting and advised as to the seriousness of the matter under consideration. The student will be informed of what provision(s) of the rules of conduct he/she is charged with violating, and what appears to be the range of penalties, if any, which might result from disciplinary proceedings.

(3) After considering the evidence in a case and interviewing the student or students involved, the vice-president for student services, or in his/her absence, the designee, may take any of the following actions:

- (a) Terminate the proceeding, exonerating the student or students.
- (b) Dismiss the case after providing whatever counseling and advice may be appropriate.
- (c) Impose disciplinary sanctions directly, subject to the student's right of appeal as described in this procedure. The student shall be notified in writing of the action taken except that disciplinary warnings may be given verbally.
- (d) Refer the matter to the student/faculty disciplinary committee for appropriate action. The student shall be notified in writing that the matter has been referred to the committee. If a referral or an appeal is made to the student/faculty disciplinary committee, the committee shall hold a hearing, reach conclusions, and may impose sanctions.

NEW SECTION

**WAC 495A-121-062 Summary suspension procedures.** (1) If the vice-president for student services deems summary suspension appropriate, he/she shall give the student oral or written notice of the reasons for the summary suspension, duration of the summary suspension, and of any possible additional disciplinary or corrective action that may be taken. If oral notice is given, written notice shall follow within two calendar days. In addition, the vice-president for student services shall set a date for informal hearing of the summary suspension as soon as practicable.

(2) The presiding officer for the informal hearing shall be an administrator designated by the president other than the administrator who initially imposed the summary suspension (normally, the vice-president for student services) and will be accompanied by the president of the associated student government of Bates Technical College or designee. The student shall be given the opportunity to present written and/or oral evidence. The issue before the presiding officer shall be whether reasonable cause exists to support and to continue the summary suspension.

(3) The presiding officer shall issue a written decision within two days of the informal hearing.

(4) The student may request a de novo review of the informal hearing decision before the student/faculty disciplinary committee. Either party may request the review to be consolidated with any other disciplinary proceeding arising from the same matter.

(5) Nothing herein shall prevent faculty members from taking summary action as may be reasonably necessary to maintain order in the classroom and/or prevent substantial disruption to the educational process. Such summary action in the form of removal from the classroom may not exceed three working days per episode. Any such summary action may be appealed to the vice-president for student services for an informal hearing.

NEW SECTION

**WAC 495A-121-063 Appeals.** Any disciplinary action other than warning or reprimand may be appealed. All appeals must be made in writing and addressed to the vice-president for student services within ten calendar days of the college's giving notice of the disciplinary action.

(1) Disciplinary action by any college employee may be appealed to, and shall be reviewed by, the vice-president for student services, or in his/her absence, the designee.

(2) Disciplinary action by the appropriate disciplinary official may be appealed to, and shall be reviewed by, the student/faculty disciplinary committee.

(3) Disciplinary action by the student/faculty disciplinary committee may be appealed to, and shall be reviewed by, the college president or his/her designee.

(4) Disciplinary action by the president shall either indicate approval of the conclusions by sustaining the decision or shall give directions as to what other disciplinary action shall be taken by modifying the decision, or shall nullify previous sanctions imposed by reversing its decision. All appeals to the president shall be final.

NEW SECTION

**WAC 495A-121-064 Student/faculty disciplinary committee.** The student/faculty disciplinary committee, convened for that purpose, will hear, de novo, and make recommendations on all disciplinary cases referred to it by the appropriate authority or appeal to it by student(s). The committee will be composed of the following persons:

(1) A member appointed by the president of the college who shall serve as chair;

(2) Two members of the faculty, appointed by the president of the faculty association;

(3) Two representatives from the associated student government appointed by the student body president.

None of the above-named persons shall sit on any case in which he/she has been a complainant or witness, in which he/she has a direct or personal interest, or in which he/she has acted previously in an advisory or official capacity. Decisions in this regard, including the selection of alternates, shall be made by the disciplinary committee as a whole.

#### NEW SECTION

**WAC 495A-121-065 Procedural guidelines of the student/faculty disciplinary committee.** The student has a right to a fair and impartial hearing before the committee on any charge of misconduct resulting in disciplinary action other than warning or reprimand.

(1) The committee chair shall establish general rules of procedures for conducting hearings. A majority of the committee shall set the time, place and available seating capacity for a hearing. All proceedings of the committee will be conducted with reasonable dispatch and terminated as soon as possible in fairness to all parties involved.

(2) The committee shall issue written notice to the student of the date, time, and place of the hearing, and the charges against the student consistent with RCW 34.05.434. This notice of hearing shall be provided no later than seven days prior to the date of the hearing. The notice may be amended at any time prior to the hearing, but if such amendment is prejudicial to the student's case, the hearing shall be rescheduled to a later date if so requested in writing by the student.

(3) The student may be represented by counsel and/or accompanied by an advisor of his/her choice. If the student elects to choose a duly licensed attorney admitted to practice in the state of Washington as counsel, notice thereof must be tendered by the student to the vice-president for student services at least seven calendar days prior to the hearing.

(4) The student or his/her representative shall be entitled to hear and examine the evidence against him/her and be informed of the identity of its sources; the student shall be entitled to present evidence in his/her own behalf and to question witnesses testifying against him/her as to factual matters. The committee shall request the administration to provide the student with a list of witnesses who will appear, and a description of any documentary or other physical evidence that will be presented at the hearing. The student shall have all authority which is possessed by the college to obtain information or to request the presence of witnesses or the production of other evidence relevant to the issues at the hearing.

(5) Only those matters presented at the hearing, in the presence of the student involved, will be considered in determining whether the student is guilty of the misconduct charged but the student's past record of conduct may be taken into account in formulating the committee's recommendation for disciplinary action.

(6) Hearings conducted by the committee may be held in closed session at the discretion of the committee, the only exception being when the student involved invites particular

persons or requests an open hearing. If at any time during the conduct of the hearing, invited guests are disruptive of the proceedings, the chair of the committee may exclude such persons from the hearing room.

(7) Failure on the part of the student(s) to appear or cooperate in the proceedings may result in default in accordance with RCW 34.05.440. However, it may not preclude the committee from making its findings of fact, reaching conclusions and imposing sanctions. Failure of the student to cooperate may be taken into consideration by the committee in recommending penalties. The committee may decide: To uphold or modify sanctions in accordance with the process set forth in these provisions.

An adequate summary of the proceedings will be kept. At a minimum, such summary would include a tape recording of testimony. Such record will be available for inspection and copying in the office of student services during regular business hours. The student will be provided with a copy of the findings of fact and conclusions of the committee.

#### NEW SECTION

**WAC 495A-121-066 Appeal of the student/faculty disciplinary committee's decision.** (1) The student will be advised of his/her right to present within seven calendar days, a written statement of appeal to the president of the college before action is taken on the decision of the committee. In the case of a student under eighteen years of age, written notice of any action involving dismissal or disciplinary probation may be sent to the parents or guardian of the student.

(2) If the student concludes that the action of the disciplinary committee is inappropriate, the student may appeal the matter to the president of the college. The president or his/her designated representative, after reviewing the case, including the report of the committee and any statements filed by the student, shall either indicate his/her approval of the conclusions of the committee by sustaining its decision, shall give directions as to what other disciplinary action shall be taken by modifying its decision or shall nullify previous sanctions imposed by reversing its decision. The president shall then notify the official who initiated the proceedings, the student and the committee chair. The decision of the president is final.

#### NEW SECTION

**WAC 495A-121-070 Reporting, recording and maintaining records.** The office of the vice-president for student services shall keep records of all disciplinary cases. Except in proceedings where the student is exonerated, all documentary or other physical evidence produced or considered in disciplinary proceedings, and all recorded testimony shall be preserved, insofar as possible, for not more than six years. No other records of proceedings wherein the student is exonerated, other than the fact of exoneration, shall be maintained in the student's file or other college repository after the date of the student's graduation or not more than six years.

NEW SECTION**WAC 495A-121-090 Student grievance procedure.**

The purpose of the grievance procedure is to provide a student with the opportunity to express and resolve any misunderstanding, alleged violation of a college policy, procedure or regulation, retaliation and or inequitable treatment in a fair and equitable manner. Students have the right to receive clear information and fair application of college policies, standards, rules and requirements, and are responsible for complying with them in their relationships with college personnel. The grievance procedure emphasizes an information resolution which promotes constructive dialogue and understanding.

NEW SECTION

**WAC 495A-121-091 Student complaints.** (1) Step one. The student shall first determine if a formal written process is required by securing the student petition form. If not, an information meeting with the instructor/staff member should be scheduled by the student to resolve the concern(s).

If an informal meeting does not resolve the concern(s), within ten calendar days from the time the event occurred or that the student knew, or reasonably should have known of the grievance, the student may present the grievance in writing to the instructor involved with a copy sent to the vice-president for student services. Within ten calendar days after receiving the grievance, the instructor shall respond to the grievance in writing.

(2) Step two. If the grievance is not resolved at step one, the student may within ten calendar days of the receipt of the written response, appeal to the area director/associate director by submitting the appropriate copy of the grievance form and all documents from step one to the area director/associate director.

(a) The director/associate director shall hear the grievance within ten calendar days after receipt of the grievance form and shall render a decision in writing within ten calendar days after such hearing.

(b) The student shall be afforded an adequate and fair opportunity to fully present his/her position and the relevant facts as they relate to the issues raised by the grievance.

(3) Step three. If the grievance is not resolved at step two, the student may within ten calendar days of receipt of the written response, provide the appropriate copy of the student grievance form and a written appeal, accompanied by documents and correspondence, to the vice-president for student services.

(a) The vice-president for student services shall hear the grievance within ten calendar days after receipt of the written appeal and shall render a decision in writing within ten calendar days after such hearing concludes.

(b) The student shall be afforded an adequate and fair opportunity to fully present his/her position and the relevant facts and issues to be addressed in the grievance.

(c) The decision of the vice-president for student services shall be final and binding on all parties involved in the grievance.

(d) Any settlement of the grievance shall be applicable to that grievance only and shall not be a precedent or have binding effect or disposition on any other grievances of similar nature.

NEW SECTION

**WAC 495A-121-092 Records.** The vice-president for student services shall keep all written statements or transcripts associated with the complaint as part of the files. The files will be destroyed after six years from the initiation of the complaint.

NEW SECTION

**WAC 495A-121-093 Time limits on filing a complaint.** The student must file a complaint within one quarter of the event, which caused the grievance to be filed. The vice-president for student services may suspend this rule under exceptional circumstances such as extended illness, or a leave of absence. No complaints will be considered after two quarters of the occurrence of the source of the grievance. When either party to the complaint is no longer present at the college and does not expect to return, the vice-president will give the absent party reasonable opportunity to reply to the complaint before making a decision.

NEW SECTION

**WAC 495A-121-094 Grievances excluded.** (1) The student grievance procedure described in this section is not intended to cover complaints of discrimination or sexual harassment. The college has separate, specific procedures for such complaints. See the vice-president for human resources for information on those specific procedures.

(2) A student may not use the provisions of these sections as the basis for filing a grievance based on the outcome of summary or other disciplinary proceedings described in earlier sections of this student rights and responsibilities code or for resolution of specific categories of student complaints where other procedures are required.

(3) Federal and state laws, rules and regulations, in addition to policies, regulations and procedures adopted by the state board for community and technical colleges or the board of trustees of Bates Technical College District No. 28 shall not be grievable matters.

**WSR 00-05-021  
PROPOSED RULES  
GROWTH MANAGEMENT  
HEARINGS BOARDS**

[Filed February 8, 2000, 12:23 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-17-081.

Title of Rule: Growth Management Hearings Boards (GMHB) rules and procedures.



Purpose: Update and clarify rules of practice and procedure, change meeting times.

Statutory Authority for Adoption: RCW 36.70A.270(7).  
 Statute Being Implemented: Chapter 36.70A WAC, Growth Management Act.

Summary: Three sections are changed to reflect board administrative changes regarding meeting times board contacts. One section adds the boards website as a location for obtaining decisions of the boards. Three sections are amended to clarify board procedures (reconsiderations, governor standing, and settlement extensions).

Reasons Supporting Proposal: Efficiency and periodic updates.

Name of Agency Personnel Responsible for Drafting: Ed McGuire, Central Puget Sound, 1215 4th Avenue, Seattle, (206) 389-2625; Implementation and Enforcement: Joint (all board members).

Name of Proponent: Growth Management Hearings Boards, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 242-02-052, changes place for filing rule-making requests; WAC 242-02-255, establishes process for obtaining governor certified standing; WAC 242-02-522, authorizes presiding officer to grant settlement extensions; WAC 242-02-832, clarifies reconsideration procedures; WAC 242-02-834, adds website as location board decision and orders; WAC 242-04-030, changes Central Puget Sound board's regular meeting time; and WAC 242-04-050, changes contact for joint boards.

Proposal Changes the Following Existing Rules: See above.

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

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Capitol Court Building, Room 135, 1110 Capitol Way South, Olympia, WA, on March 30, 2000, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Diane Rennell by March 23, 2000, TDD (206) 389-2625, or e-mail cps@gmaboards.wa.gov.

Submit Written Comments to: Ed McGuire, Joint Board Rules Coordinator, fax (206) 389-2588, by March 27, 2000.

Date of Intended Adoption: March 30, 2000.

February 8, 2000

E. G. McGuire

Rules Coordinator

Joint Boards CPSGMHB Member

**AMENDATORY SECTION** (Amending WSR 98-01-144, filed 12/19/97, effective 1/20/98)

**WAC 242-02-052 Petition for rule making.** (1) Right to petition for rule making. Any person may petition the joint boards for the adoption, amendment, or repeal of any rule. Said petition shall be filed with the ~~((Eastern board's office in Yakima, Washington))~~ Central Puget Sound board during the 1999-2001 biennium; the Western board during the 2001-

2003 biennium; and the Eastern board during the 2003-2005 biennium.

(2) Form of petition. The form of the petition for adoption, amendment, or repeal of any rule shall generally adhere to the following:

(a) A caption in the following form:

BEFORE THE  
 JOINT GROWTH MANAGEMENT HEARINGS BOARDS  
 STATE OF WASHINGTON  
 No.  
 PETITION FOR RULE MAKING

In the matter of  
 the Petition of  
 (Name of Petitioner)  
 for Rule Making

(b) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether the petitioner seeks the adoption of a new rule or rules, or amendment or repeal of an existing rule or rules. The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by board rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interests of the petitioner and the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

(c) The petition shall be dated and signed by the party named in the first paragraph or by the petitioner's attorney or other authorized representative. The original and nine copies shall be filed with the Eastern board at its office in Yakima, Washington.

**NEW SECTION**

**WAC 242-02-255 Governor certified standing.** If the board receives a request for governor certified standing from a petitioner pursuant to RCW 36.70A.280 (2)(c), the board shall immediately forward the petitioner's request to the governor. The board shall indicate the end of the sixty-day time period within which the determination of standing must be made.

**AMENDATORY SECTION** (Amending WSR 98-01-144, filed 12/19/97, effective 1/20/98)

**WAC 242-02-522 Presiding officer—Powers and duties.** It shall be the duty of the presiding officer to conduct conferences or hearings as directed by a board in an impartial and orderly manner. The presiding officer shall have the authority, subject to the other provisions of the act or these rules to:

(1) Inspect the petition for review to determine whether, on its face, compliance with the jurisdictional and standing

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requirements of the act is shown, and if compliance is not shown, to recommend an action or to refer the issue to the full board for resolution;

(2) Take appropriate action with respect to the qualifications of the parties or the parties' attorney(s) or other authorized representative(s) to appear before a board;

(3) Administer oaths and affirmations if witnesses are permitted to testify;

(4) Issue subpoenas as provided in RCW 34.05.446;

(5) Rule on all procedural matters, objections and motions unless a board determination is required;

(6) Rule on all evidentiary matters including offers of proof;

(7) When applicable, question witnesses called by the parties in an impartial manner as needed to develop any facts deemed necessary to fairly and adequately decide the issue;

(8) Issue orders joining other parties, on motion of any party, when it appears that such other parties may have an interest in, or may be affected by the case;

(9) Consolidate cases for hearing when such consolidation will expedite disposition and avoid duplication of testimony and when consolidation will not unduly prejudice the rights of any party;

(10) Hold conferences for the settlement or amplification of the issues;

(11) Regulate the course of the case;

(12) Encourage the parties to stipulate to the admissibility of documents in advance of a hearing and to rule on issues concerning the content of the record;

(13) Limit the length of a brief or impose format restrictions;

(14) Sign and file certificates of agreement acknowledging receipt of timely, complete, executed agreements for direct review by superior court;

(15) Rule on requests for settlement extensions;

(16) Waive any requirement of these rules unless a party shows that it would be prejudiced by such a waiver; and

~~((16))~~ (17) Take any other action necessary and authorized by these rules, the act, or the Administrative Procedure Act, chapter 34.05 RCW.

**AMENDATORY SECTION** (Amending WSR 98-01-144, filed 12/19/97, effective 1/20/98)

**WAC 242-02-832 Reconsideration.** (1) After issuance of a final decision any party may file a motion for reconsideration with a board in accordance with subsection (2) of this section. Such motion must be filed within ten days of service of the final decision. The original and three copies of the motion for reconsideration shall be filed with the board. At the same time, copies shall be served on all parties of record. Within five days of filing the motion for reconsideration, a party may file an answer to the motion for reconsideration without direction or request from the board. A board may require other parties to supply an answer (~~which shall be served in a like manner~~). All answers to motions for reconsideration shall be served on all parties of record.

(2) A motion for reconsideration shall be based on at least one of the following grounds:

(a) Errors of procedure or misinterpretation of fact or law, material to the party seeking reconsideration;

(b) Irregularity in the hearing before the board by which such party was prevented from having a fair hearing; or

(c) Clerical mistakes in the final decision and order.

(3) In response to a ~~((petition))~~ motion for reconsideration, the board may deny the ~~((petition))~~ motion, modify its decision, or reopen the hearing. A ~~((petition))~~ motion is deemed denied unless the board takes action within twenty days of filing ~~((of the petition or answer where a board has required other parties to provide such an answer pursuant to subsection (1) of this section))~~ the motion for reconsideration. A board order on a motion for reconsideration is not subject to a motion for reconsideration.

(4) A decision in response to the petition for reconsideration shall constitute a final decision and order for purposes of judicial review. Copies of the final decision and order shall be served by the board on each party or the party's attorney or other authorized representative of record.

**AMENDATORY SECTION** (Amending WSR 97-04-008, filed 1/24/97, effective 3/1/97)

**WAC 242-02-834 Publication of final decision and orders.** Copies of all final decisions and orders are available from the board that entered the decision and order. Code Publishing Company, POB 51164, Seattle, WA 98115-1164 is the official publisher of all final decisions and orders entered by the boards. ~~((In addition, final decisions and orders are available from CD Law, 1000 2nd Ave., Ste. # 1610, Seattle, WA 98104 and Law BBS, Washington St. Bar Association, 2001 Sixth Ave., Ste. 500, Seattle, WA 98121-2599.))~~ The growth management hearings board website is [www.gma-boards.wa.gov](http://www.gma-boards.wa.gov). Each board posts its decisions within its individual portion of the website and maintains a digest of its decisions.

**AMENDATORY SECTION** (Amending WSR 98-01-144, filed 12/19/97, effective 1/20/98)

**WAC 242-04-030 Description of organization and public meetings.** (1) Each board is an independent agency of the state of Washington, composed of three members appointed by the governor. Each board elects an administrative chairperson from its members at least annually.

(2) The administrative chairpersons constitute the administrative committee of the joint boards. The administrative committee elects an administrative chairperson from its members at least annually.

(3) Regular meetings of each board will be held at its principal office or other designated location at the following times:

(a) Eastern Washington board - on the first Wednesday of each month at 10:00 a.m.

(b) Western Washington board - on the second Wednesday of each month at 11:00 a.m.

(c) Central Puget Sound board - on the ~~((second Thursday))~~ first Monday of each month at 10:00 a.m.

(4) The joint boards shall meet at least annually at a time and location to be announced.

**AMENDATORY SECTION** (Amending WSR 98-01-144, filed 12/19/97, effective 1/20/98)

**WAC 242-04-050 Communications with each board or the joint boards.** (1) All communications with a board, including but not limited to the submission of materials pertaining to its operations and/or administration or enforcement of chapter 42.17 RCW and these rules, requests for copies of each board's decisions and other matters, shall be addressed to the appropriate board's office as follows:

- (a) Eastern Washington Growth Management Hearings Board  
Suite 818 Larson Building  
6 South 2nd Street  
Yakima, Washington 98901  
(509) 454-7803  
(509) 454-7292 FAX
- (b) Western Washington Growth Management Hearings Board  
905 24th Way S.W. Suite B-2  
P.O. Box 40953  
Olympia, Washington 98504-0953  
(360) 664-8966  
(360) 664-8975 FAX
- (c) Central Puget Sound Growth Management Hearings Board  
Financial Center  
1215 Fourth Avenue, Suite 322  
Seattle, Washington 98161-1001  
(206) 389-2625  
(206) 389-2588 FAX

(2) All communications with the joint boards shall be addressed in care of the ~~((Eastern Washington board))~~ Central Puget Sound board during the 1999-2001 biennium; the Western board during the 2001-2003 biennium; and the Eastern board during the 2003-2005 biennium.

**WSR 00-05-032**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**

[Filed February 9, 2000, 2:22 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 99-24-032.

Title of Rule: Amend WAC 458-16-080 Improvements to single family dwellings—Definitions—Exemption—Limitation—Appeal rights, and repeal WAC 458-16-081 Improvements to single family dwellings—Definitions.

Purpose: WAC 458-16-080 presently defines the terms "single family dwelling" and "physical improvements" that are used in RCW 84.36.400 which confers a property tax exemption on improvements to single family dwellings. WAC 458-16-081 explains how the exemption authorized by RCW 84.36.400 may be obtained. This rule describes the

amount, duration, and value limitation of the property tax exemption.

Statutory Authority for Adoption: RCW 84.36.365 and 84.36.400.

Statute Being Implemented: RCW 84.36.400.

Summary: WAC 458-16-080 currently contains two definitions and WAC 458-16-081 explains the requirements, conditions, and duration of the exemption related to the property tax exemption for improvements to single family dwellings. The proposed rule expands the number of terms defined, explains the process of obtaining the exemption authorized by RCW 84.36.400, and describes how the amount of the exemption is calculated. The amended rule combines the two existing rules.

Reasons Supporting Proposal: The proposed rule will be used by local taxing officials in administering the property tax exemption authorized by RCW 84.36.400. It consolidates all information needed to understand and administer the exemption. It will combine two rules concerning the same subject matter, thereby eliminating one overlapping rule. The proposed rule will provide information to taxpayers and local taxing officials about the property tax exemption for improvements to single family dwellings.

Name of Agency Personnel Responsible for Drafting: Kim M. Qually, 711 Capitol Way South, #303, Olympia, WA, (360) 664-0086; Implementation and Enforcement: Sandy Guilfoil, 6004 Capitol Boulevard, Tumwater, WA, (360) 753-5503.

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: WAC 458-16-080 currently defines the critical terms used in administering the property exemption provided in RCW 84.36.400 to taxpayers that improve their single family dwellings. WAC 458-16-081 describes how the exemption is obtained and its duration and limitation. The proposed rule, WAC 458-16-080, combines the two existing rules on the same exemption into one comprehensive rule. It expands the number of terms defined and explains the process of obtaining the exemption. The rule also describes how the amount of exemption is calculated and other procedures used in administering this exemption. The proposed rule consolidates all the information necessary to understand and administer this property tax exemption. It provides information vital to taxpayers and local taxing officials.

Proposal Changes the Following Existing Rules: WAC 458-16-081 will be consolidated into the proposed rule WAC 458-16-080. The consolidated rule will contain all the information to understand and administer the exemption for improvements to single family dwellings. WAC 458-16-081 will be repealed when the revised version of WAC 458-16-080 is permanently adopted thereby eliminating an overlapping rule from the administrative code.

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

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burdens upon small businesses that are not already specifically 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: Evergreen Plaza Building, 711 Capitol Way South, 2nd Floor Conference Room, Olympia, WA, on March 23, 2000, at 1:30 p.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: Kim M. Qually, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail kimq@dor.wa.gov, by March 23, 2000.

Date of Intended Adoption: March 31, 2000.

February 9, 2000

Claire Hesselholt

Rules Manager

Legislation and Policy Division

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**AMENDATORY SECTION** (Amending Order PT 75-3, filed 5/23/75)

**WAC 458-16-080 Improvements to single family dwellings—Definitions—Exemption—Limitation—Appeal rights.** ((For the purpose of WAC 458-16-080 and 458-16-081 and RCW 84.36.400:

~~(1) The term "single family dwelling" shall mean a detached dwelling unit and the lot on which the dwelling stands which is designed for, and not occupied by, more than one family. Said dwelling unit must meet the definition of real property contained in WAC 458-12-010 and RCW 84.04.090.~~

~~(2) The term "physical improvement" shall mean any addition, improvement, remodeling, renovation, structural correction or repairs which shall materially add to the value or condition of an existing dwelling. It shall also include the addition of, or repairs to, garages, carports, patios or other improvements attached to and compatible with similar dwellings, but shall not include swimming pools, outbuildings, fences, etc., which would not be common to or normally recognized as components of a dwelling unit.)) (1) **Introduction.** This section explains the property tax exemption available to taxpayers when they make physical improvements to their single family dwelling under the provisions of RCW 84.36.400. It explains the process by which this exemption is obtained and how the amount of the exemption is calculated.~~

~~(2) **Definitions.** For purposes of this section, the following definitions apply:~~

~~(a) "Department" means the department of revenue.~~

~~(b) "Single family dwelling" or "dwelling" means a structure maintained and used as a residential dwelling that is designed exclusively for occupancy by one family.~~

~~(i) It is an independent and free-standing structure containing one dwelling unit and having a permanent foundation.~~

~~(ii) For the purposes of this exemption, a manufactured home, mobile home, or park model trailer will be considered a "single family dwelling" if it has substantially lost its identity as a mobile unit by virtue of its being permanently fixed~~

in location upon land owned or leased by the owner of the manufactured home, mobile home, or park model trailer and placed on a foundation (posts or blocks) with fixed pipe connections with sewer, water, or other utilities.

(c) "Physical improvement" means any addition, improvement, remodel, renovation, or structural enhancement that materially adds to the value of an existing single family dwelling. It is an actual, material, and permanent change that increases the value of the dwelling.

(i) The term includes the addition of a garage, carport, patio, or other improvement to the dwelling that materially adds to its value.

(ii) The term does not include a swimming pool, outbuilding, fence, landscaping, barn, shed, shop, or other item that enhances the land upon which the dwelling stands, but is not common to or normally recognized as a structural component of a single family dwelling.

(iii) The term does not include repairs to or deferred maintenance of a dwelling.

(d) "Physical inspection" means, at a minimum, an exterior observation of the dwelling to determine what physical improvements have been made and whether they increase its true and fair value.

(e) "Real property" has the same meaning as contained in RCW 84.04.090 and chapter 458-12 WAC; these definitions should be consulted as a matter of course in interpreting and administering this exemption.

(f) "Repairs" means work that preserves the dwelling or returns it to its original condition or use.

(g) "Taxpayer" means any person charged, or whose property is charged, with property tax for the dwelling.

(3) **Exemption - taxpayer's obligations.** Physical improvements to a single family dwelling upon real property are exempt from property tax for three assessment years after the improvements are completed. The amount of the exemption is the difference between the true and fair value of the dwelling before and after the physical improvement. However, the amount of the exemption cannot exceed thirty percent of the true and fair value of the dwelling prior to the improvements.

(a) The following conditions must be met to receive this exemption:

(i) The dwelling must be a "single family dwelling" as defined in subsection (2) of this section;

(ii) The taxpayer must file a claim for the exemption with the assessor of the county in which the real property is located before the improvements are completed. All claims shall be made on forms prescribed by the department and signed by the taxpayer or the taxpayer's authorized agent. Claim forms may be obtained from the assessor's office or the department; and

(iii) The taxpayer may not claim this exemption more than once in a five-year period on the same dwelling. The five-year period begins the first assessment year the exemption appears on the county's assessment roll.

(b) When the improvements are completed, the taxpayer must submit a written notice of completion to the assessor.

(c) The following examples show how eligibility requirements for this exemption will be applied. These

examples should be used only as a general guide and cannot be relied upon for any other purpose.

(i) Example 1. The addition of a garage or carport to a single family dwelling may qualify for exemption because it may increase the value of and is compatible with the existing residential dwelling. Conversely, the construction of a swimming pool, shed, barn, or shop, which are not commonly attached to a dwelling, does not qualify for the exemption; even though the construction of such a structure may increase the value of the parcel as a whole.

(ii) Example 2. The replacement of a composition roof with a tile roof on a dwelling may qualify for exemption because a tile roof may increase the value of the dwelling. If the composition roof is repaired or replaced with the same type of composition roofing materials, the repair or replaced roof will not qualify for the exemption.

(4) Assessor's duties. Upon receipt of a taxpayer's claim for exemption, the assessor shall determine the true and fair value of the unimproved dwelling. This value may be determined by means of a physical inspection and appraisal or a statistical update of the value shown on the county's current assessment roll. After receiving a notice of completion from the taxpayer, the assessor shall revalue the improved dwelling by means of a physical inspection to determine the amount of the exemption.

(5) Amount of exemption. The amount of the exemption is the difference between the dwelling's true and fair value before and after improvements, but this amount cannot exceed thirty percent of the true and fair value of the original unimproved dwelling. In other words, the amount of the exemption is determined by subtracting the true and fair value of the unimproved dwelling from the true and fair value of the dwelling including improvements. The cost of the physical improvements is not the basis for the exemption granted under RCW 84.36.400 and, as a result, the exemption granted is not normally equivalent to the costs incurred by the taxpayer.

(a) The amount of the exemption shall be deducted from the assessed value of the improved dwelling for the three assessment years immediately following completion of the improvement.

(b) The dwelling must at all times be a "single family dwelling" as defined in subsection (2) of this section. If the assessor determines the dwelling does not meet this definition, the exemption will be denied or canceled.

(c) When an exemption has been granted and placed on the assessment roll, the exemption will continue for the three-year exemption period even if the single family dwelling is sold. The exemption pertains to the dwelling and is not personal to the individual property owner.

(d) Example. The following example should be used only as a general guide and cannot be relied upon for any other purpose. In 1998, Taxpayer A completed the addition of a family room and the renovation of the kitchen. These improvements cost the taxpayer \$60,000. (As the following example will show, the cost of improvements is not the basis of the amount of the exemption.)

<u>True &amp; fair value of dwelling prior to improvements</u> .....	<u>\$150,000</u>
<u>True &amp; fair value of improved dwelling</u> .....	<u>\$200,000</u>
<u>Difference (value of physical improvements)</u> ..	<u>\$50,000</u>
<u>Amount of exemption</u> .....	<u>\$45,000</u>

The difference between the value of the improved dwelling and the value of the unimproved dwelling (\$50,000) or 30% of the unimproved dwelling (\$150,000 x 30% = \$45,000), whichever is less.

The assessed value of the improved dwelling will be reduced by \$45,000 for the next three assessment years (1999, 2000, and 2001).

(6) Limitation. This exemption may not be claimed on the same dwelling more than once in a five-year period. This five-year period begins the first year the exemption appears on the county's assessment roll. (In the example above, the taxpayer may not file another claim for an exemption on this dwelling under RCW 84.36.400 until 2003.)

(7) Relationship to revaluation cycle. Chapter 84.41 RCW requires each county to establish and maintain a systematic program to revalue all taxable real property within the county at least once every four years.

(a) When an exemption has been granted under RCW 84.36.400, the dwelling may be revalued during the three assessment years the exemption is in effect in accordance with the county's scheduled revaluation plan. The revaluation program will proceed as usual, but the amount of the exemption will remain unchanged.

(b) Example. The following example, which is a continuation of the example set out in subsection (5)(d) of this section, should be used as a general guide and cannot be relied upon for any other purpose.

The scheduled revaluation plan for the county in which the single family dwelling is located calls for all property to be revalued every four years. The unimproved dwelling was revalued in 1997. The dwelling is improved and a claim for exemption is submitted and approved in June 1998. The first year the exemption will be reflected on the assessment roll is 1999.

	<u>1997 Revaluation &amp; Assessment Year</u>	<u>1998 Assessment Year Improvements are completed</u>	<u>1999 Assessment Year</u>	<u>2000 Assessment Year</u>	<u>2001 Revaluation &amp; Assessment Year</u>	<u>2002 Assessment Year</u>
<u>True &amp; fair value of dwelling</u>	<u>\$150,000</u>	<u>\$150,000 +50,000*</u>	<u>\$200,000</u>	<u>\$200,000</u>	<u>\$225,000</u>	<u>\$225,000</u>

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	<b>1997 Revaluation &amp; Assessment Year</b>	<b>1998 Assessment Year Improvements are completed</b>	<b>1999 Assessment Year</b>	<b>2000 Assessment Year</b>	<b>2001 Revaluation &amp; Assessment Year</b>	<b>2002 Assessment Year</b>
Amount of exemption	none	none	- 45,000**	- 45,000	- 45,000	none
True & fair value of dwelling minus exemption	n/a	n/a	\$155,000	\$155,000	\$180,000	\$225,000
Assessed value of dwelling	\$150,000	\$200,000	\$155,000	\$155,000	\$180,000	\$225,000
*New construction value on 7/31	n/a	\$50,000*	n/a	n/a	n/a	n/a

\*RCW 36.21.080 authorizes the assessor to place the increased value of any property that is increased in value due to construction or alteration for which a building permit was issued, or should have been issued, on the assessment rolls for the purposes of tax levy up to August 31st of each year. The assessed value of the property shall be considered as of July 31st of that year.

\*\*Even though the value of the dwelling increased by \$50,000, the amount of the exemption cannot exceed 30% of the true and fair value of the unimproved single family dwelling (i.e., \$150,000 x 30% = \$45,000).

**(8) Exemption in relationship to destroyed property.**

If the value of a dwelling has been reduced under the provisions of chapter 84.70 RCW because it was destroyed, the dwelling is ineligible to receive the exemption authorized by RCW 84.36.400.

(9) Right to appeal. A taxpayer who applies for an exemption under RCW 84.36.400 may file an appeal with the county board of equalization under the following circumstances:

- (a) The application for exemption is denied;
- (b) The exemption is removed prior to the expiration of the three-year exemption period; or
- (c) The taxpayer disputes the amount of the exemption granted.

**WSR 00-05-033**

**PROPOSED RULES**

**DEPARTMENT OF REVENUE**

[Filed February 9, 2000, 2:25 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-24-037.

Title of Rule: Amend WAC 458-12-320 Timber and forest products—Ownership—Roads and repeal WAC 458-12-315 Timber and forest products—Valuation.

Purpose: WAC 458-12-315 explains valuation of timbers sold by a governmental agency and owned separately from the publicly owned land. WAC 458-12-320 declares that timber standing on federal land is not taxable until title to it passes to a taxable party. It also deals with assessment and taxation of a right-of-way or easement over land adjacent to publicly owned timberland.

Statutory Authority for Adoption: RCW 84.04.080 and 84.33.074.

Statute Being Implemented: RCW 84.04.080, 84.33.040, and 84.33.074.

Summary: The contents of WAC 458-12-315 and 458-12-320 are out-of-date. Property Tax Bulletin 97-1 reflects the current valuation and assessment practices related to public timber sales. The proposed rule combines the bulletin's information into Rule 320 and supplants the out-of-date information contained in the two existing rules.

Reasons Supporting Proposal: The proposed text of WAC 458-12-320 will provide taxpayers and local taxing officials with the majority of information they may need regarding the valuation and assessment public timber sales. The department intends to repeal WAC 458-12-315 and cancel Property Tax Bulletin 97-1 when WAC 458-12-320 is permanently adopted.

Name of Agency Personnel Responsible for Drafting: Kim M. Qually, 711 Capitol Way South, #303, Olympia, WA, (360) 664-0086; Implementation and Enforcement: Sandy Guilfoil, 6004 Capitol Boulevard, Tumwater, WA, (360) 753-5503.

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: Timber on publicly owned land is exempt from property tax. However, when timber on publicly owned land is sold by a governmental agency, it is subject to personal property tax. The amount of personal property tax paid on this public timber is used as a credit towards any timber excise tax that is normally assessed on all timber harvested. Information now provided in WAC 458-12-315 and 458-12-320 needs to be updated and should be consolidated into a single rule. Current valuation and assessment practices relat-

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ing to public timber sales are provided in Property Tax Bulletin 97-1 (Procedure for assessment of state timber sales). This bulletin, rather than either of the existing rules, is used by taxing officials in determining value of public timber held separately from public land. The contents of the bulletin should be combined with pertinent information in WAC 458-12-315 or 458-12-320 into one rule. The proposed rule will provide taxpayers and local taxing officials with the majority of the information they may need regarding public timber sales. The amended version of WAC 458-12-320 will establish uniform procedures to be used in determining the taxable value of timber sold by agencies of state and local government separately from publicly owned land. It will also describe the origin and use of the state timber sales adjustment table, the effect road construction costs have on the true and fair value of the timber, and the method used to determine the amount and value of timber remaining from a public timber sale on each January 1st assessment date.

Proposal Changes the Following Existing Rules: The proposed rule-making action will consolidate WAC 458-12-315 Timber and forest products—Valuation, WAC 458-12-320 Timber and forest products—Ownership—Roads, and Property Tax Bulletin 97-1 (Procedure for assessment of state timber sales) into a single rule. The property tax bulletin accurately reflects the current assessment and valuation practices related to sales of public timber sales. The contents of this bulletin have been rewritten and form the basis of the proposed rule, WAC 458-12-320. WAC 458-12-315 and Property Tax Bulletin 97-1 will be repealed or cancelled when WAC 458-12-320 is permanently adopted.

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

RCW 34.05.328 does not apply to this rule adoption. This rule is an interpretive rule as defined in RCW 34.05.328.

Hearing Location: Evergreen Plaza Building, 711 Capitol Way South, 2nd Floor Conference Room, Olympia, WA, on March 23, 2000, at 1:30 p.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: Kim M. Qually, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail kimq@dor.wa.gov, by March 23, 2000.

Date of Intended Adoption: March 31, 2000.

February 9, 2000  
Claire Hesselholt  
Rules Manager  
Legislation and Policy Division

AMENDATORY SECTION (Amending Order PT 68-6, filed 4/29/68)

WAC 458-12-320 Timber ((and forest products))—Ownership—Valuation—Roads—Easements over public

lands. ((Federal timber itself is not taxable until title passes to the taxable party under the terms of the purchase agreement. Contract interest of private parties in such exempt timber is taxable. Such contracts must have value in themselves in order to be taxable. (*Skate Creek Logging Company Case v. Fletcher* 46 Wn.2d 160 (1955); AGO 1923-24, p. 33; AGO 12-2-52; AGO 5-5-53; AGO 53-55 No. 29, 4-30-53) The principles for assessing leasehold interests as contained in WAC 458-12-325 shall be followed. Where a private owner has a right-of-way easement over land where title is in the United States appurtenant to owner's adjoining lands, such easement and land to which it is appurtenant shall be assessed and taxed together. (*Hammond Lumber Company v. Cowlitz County*, 84 Wash. 462 (1915); *Ozette Railway Company v. Grays Harbor County*, 16 Wn.2d 459 (1943); AGO 4-2-1942.)) (1) **Introduction.** The purpose of this rule is to establish uniform procedures to be used in determining the taxable value of timber sold by agencies of state and local government separate from publicly owned land. This rule examines the different types of timber sales and outlines the factors used to determine the true and fair value of timber sold at each type of sale. It also describes the origin and use of the State Timber Sales Adjustment Table ("adjustment table" or "table"), the affect road construction costs have on the true and fair value of the timber, and the method used to determine the amount of timber remaining from a sale on each January 1st assessment date.

(2) **General provisions.** Any standing timber sold by the state department of natural resources ("DNR") or any state or local governmental agency separate from the land, except federally owned land, which is then held or owned separately from the land, is subject to personal property tax (see RCW 84.04.080). As used in this section, "timber" has the same meaning as the term is defined in RCW 84.33.035 and WAC 458-40-610.

(a) Under the provisions of RCW 84.33.078, the notice of sale or prospectus prepared by the governmental entity selling the timber must state that the timber is subject to personal property tax. Any property tax paid on the timber may be used as a credit against any tax imposed under RCW 84.33.041 on timber harvested from publicly owned land.

(b) The amount of personal property tax owed is determined by the true and fair value of the timber, which was sold as part of a public timber sale, remaining on the public land on each January 1st assessment date. The true and fair value is the original sales price ("sales price") of the timber, in cash and other consideration, adjusted by the table that is contained in subsection (3) of this section. "Other consideration" includes, but is not limited to, any permanent improvements to the land such as roads (see WAC 458-40-610).

(3) **Adjustment table.** The department's property tax division issues an adjustment table on or before the last day of February each year. This table is used, in combination with the sales price, to calculate the true and fair value of timber remaining on public land each January 1st assessment date. The sales price of the timber sold must be adjusted to reflect the true and fair value of the remaining timber as of the January 1st assessment date. The adjustment table is based on the average quarterly stumpage price of DNR timber sales

throughout the state. The table is based on a multiple regression analysis model that reflects variations in the average quarterly timber sales' values during the pertinent time interval; that is, the time between the quarter in which the sale takes place and the assessment date.<sup>1</sup>

(a) The true and fair value of timber remaining on each January 1st assessment date is calculated by adjusting the sales price by an amount listed on the adjustment table. The amount of adjustment is determined by the date of the timber sale as follows:

DATE OF SALE	FIGURE TO BE USED FROM ADJUSTMENT TABLE
1/1 through 2/15	1st Quarter
2/16 through 5/15	2nd Quarter
5/16 through 8/15	3rd Quarter
8/16 through 11/15	4th Quarter

(b) No adjustment is needed if the sale occurs on or between 11/16 through 12/31 of the year immediately preceding the assessment date. But, if the sale occurs on or between 11/16 through 12/31 of any previous year, the first quarter adjustment figure for the subsequent year should be used.

(c) Example. The following example should be used only as a general guide and cannot be relied upon for any other purpose.<sup>2</sup> The table below illustrates the form of the adjustment table:

**1998 STATE TIMBER SALE ADJUSTMENTS**

SALE DATE	QUARTER	ADJUSTMENT \$ PER MBF
1994	Q1	-347.33
	Q2	-274.50
	Q3	-207.97
	Q4	-174.22
1995	Q1	-202.97
	Q2	-189.86
	Q3	-157.75
	Q4	-172.65
1996	Q1	-142.12
	Q2	-123.07
	Q3	-113.49
	Q4	-168.55
1997	Q1	-161.06
	Q2	-134.70
	Q3	-133.77
	Q4	-54.92
1998	Q1	-70.39
	Q2	-41.47
	Q3	-5.80
	Q4	19.06

(d) Salvage or blow down timber sales are not considered in developing the adjustment table. Therefore, the table is not used to determine the value of a salvage or blow down sale. The true and fair value of timber sold at such a sale is the sales price plus other consideration.

(4) **Determining volume remaining on assessment date.** One of the crucial factors in establishing the true and fair value of timber is determining the volume of timber remaining on the public land on each January 1st assessment date. The most accurate way to determine this volume is to hire a professional forester to cruise the remaining timber. However, if a professional forester is not hired, the type of timber sale will dictate the manner in which the volume remaining will be determined.

(a) **Lump sum sales.** A "lump sum sale" is a sale of timber wherein the total sales price is dependent upon an estimate of the total volume of timber (usually termed "cruise volume") in the sale, as opposed to the actual volume of timber harvested; for example: A sale for \$1,200,000 for all species of timber purchased (see WAC 458-40-610). This type of sale is also known as a "cash" or "installment" sale.

(i) If public timber is sold as a lump sum sale, the assessor may contact the purchaser and request information about the total volume of timber in MBF (thousand board feet) included in the sale, total purchase price of the sale, total volume of timber harvested, total volume of timber remaining on January 1st, and other facts pertinent to the sale. This information may be obtained by an audit of the purchaser's records or by a site visit to ascertain the volume of timber remaining on the land.

(ii) Calculating the true and fair value of a lump sum sale is a three step process. First, the total sales price must be converted into an average price per thousand board feet (\$/MBF) by dividing the sales price by the original cruise volume, as established by the public owner. Second, calculate an adjusted sales price by adjusting the average price/MBF using the adjustment table. And third, calculate the true and fair value by multiplying the adjusted sales price by the volume of timber remaining on January 1st of the assessment year. The following example is provided for illustrative purposes only and cannot be relied upon for any other purpose:

Date of Lump Sum Sale:	3/18/98
Original Sales Price (All Species):	\$2,050,000
Original Cruise Volume (All Species):	3,709 MBF
Volume remaining on 1/1/99:	1,235 MBF
Actual cost of roads:	\$55,000

1st step: Calculate average price per MBF (sales price ÷ cruise volume)

Average Price Per MBF: \$2,050,000 ÷ 3,709 MBF = \$553 per MBF

2nd step: Calculate adjusted sales price: Add or subtract the appropriate adjustment from the average price per MBF. In this case, the sale occurred after 2/16 so the 2nd Quarter adjustment is used.

Adjusted Sales Price: \$553 - \$41 = \$512/MBF

PROPOSED



3rd step: Calculate true and fair value: Multiply volume of timber remaining on 1/1 assessment date by adjusted sales price.

True & Fair Value without consideration for roads: 1,235 MBF x \$512 = \$623,320

**(b) Scale sales.** A scale sale is a sale of timber in which the sales price is the product of the actual volume of timber harvested and the unit price of each species at the time of harvest (see WAC 458-40-610).

(i) If public timber is sold as a scale sale, the assessor uses the "cut and sold report" compiled by DNR to calculate the volume of timber remaining on the land on each January 1st assessment date.

(ii) Calculating the true and fair value of timber remaining from a scale sale is a two step process. First, determine an adjusted price per MBF by adjusting the sales price for each timber species using the adjustment table. Second, calculate the true and fair value by multiplying the adjusted sales price per MBF by the volume of timber, by species, remaining on January 1st of the assessment year. The following example is provided for illustrative purposes only and cannot be relied upon for any other purpose:

Date of Scale Sale:	1/21/98		
Original Sales Price:	Doug Fir	=	\$425/MBF
	W. Hemlock	=	\$300/MBF
Volume remaining on 1/1/99:	Doug Fir	=	750 MBF
	W. Hemlock	=	250 MBF

1st step: Calculate adjusted sales price per MBF: Add or subtract from the sales price for each species the appropriate adjustment listed on the adjustment table. In this example the adjustment listed for 1st Quarter 1998 should be used because the sale occurred between 1/1 and 2/15.

Adjusted Sales Price:

Doug Fir	=	\$425/MBF - \$70	=	\$355/MBF
W. Hemlock	=	\$300/MBF - \$70	=	\$230/MBF

2nd step: Calculate true and fair value: Multiply the volume of timber, by species, remaining on 1/1 assessment date by the adjusted sales price.

Doug Fir	=	750 x \$355	=	\$266,250
W. Hemlock	=	250 x \$230	=	\$57,500

True & Fair Value without consideration for roads: \$323,750

**(5) Road construction costs.** In many public timber sales, permanent roads are constructed to provide the purchaser with access to the timber. As used in this section, "permanent roads" refers to both required and optional roads. These roads are generally constructed according to standards prescribed by the governmental agency selling the timber. An assessor may obtain information about the roads from the timber purchaser. Road construction costs are considered in

the original sales price and are used to determine the true and fair value of timber.

(a) Road construction costs are established by using one of the following methods:

(i) Actual road construction costs; or

(ii) Average road values ascertained by determining the number of stations (a "station" = 100 feet) listed on the "timber notice of sale." The number of stations is then multiplied by the dollar amounts listed below to calculate a total average road value.

**AVERAGE ROAD VALUES**

Western Washington:

New Construction	\$	1149 per station
Reconstruction/Betterment	\$	249 per station

Eastern Washington:

New Construction	\$	118 per station
Reconstruction/Betterment	\$	31 per station

(b) Road construction costs are not adjusted by the adjustment table because these costs remain relatively stable.

(c) Calculating the true and fair value of a public timber sale including road construction is a four step process. First, road construction costs must be determined using one of the methods contained in subsection (5)(a) of this section. Second, calculate an average value of roads per MBF by dividing the road construction costs by the volume of timber on the public land on the date of sale. The volume will either be the cruise volume, if the sale was a lump sum sale, or the volume of timber per species, if the sale was a scale sale. Third, add the average value of roads per MBF to the adjusted sales price per MBF to arrive at a final adjusted sales price including road costs. And fourth, calculate the true and fair value by multiplying the final adjusted sales price by the total volume of timber remaining for all species (on lump sum sales) or by the volume of timber remaining for each species (on scale sales) on the January 1st assessment date.

(d) Example. The following is a continuation of the example regarding lump sum sales in subsection (4)(a)(ii) of this section. The example is provided for illustrative purposes only and cannot be relied upon for any other purpose:

Facts from Lump Sum Sale:

Cruise volume of timber:	3,709 MBF
Actual costs of roads:	\$55,000
Adjusted sales price:	\$512/MBF
Volume remaining on 1/1/99:	1,235 MBF

Procedure to calculate the true & fair value of a public timber sale including road construction:

1st Step: Determine road construction costs (actual costs or average road value)

Actual Cost of Roads: \$55,000

2nd Step: Calculate average road cost per MBF (road construction costs ÷ volume of timber sold)

Average Road Cost per MBF: \$55,000 ÷ 3,709 = \$15/MBF

PROPOSED

3rd Step: Calculate final adjusted sales price  
(adjusted sales price + average road cost/MBF)

Final adjusted sales price including road costs: \$512 + 15 = \$527

4th Step: Calculate True & Fair value on assessment date  
(final adjusted sales price x volume remaining)

True & Fair Value including road costs on  
1/1/99 assessment date: \$527 x 1,235 = \$650,845

**(6) Easements to adjoining public land. When a private party has been granted a right-of-way easement over public land that is adjacent to their privately owned land, the privately owned land and the easement shall be valued and taxed together.**

- 1 A copy of this table may be obtained from Property Tax at P.O. Box 47471, Olympia, Washington 98504-7471, (360) 753-1382, FAX (360) 586-7602.
- 2 The examples contained in this rule identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The status of each situation must be determined after a review of all the facts and circumstances.

## WSR 00-05-048

### PROPOSED RULES

## DEPARTMENT OF AGRICULTURE

[Filed February 14, 2000, 9:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-01-193.

Title of Rule: Miscellaneous agricultural commodity inspection standards.

Purpose: Chapter 16-213 WAC provides for state of Washington commodity quality and grade inspection criteria, standards, and related procedures for some commodities produced and/or handled in the state of Washington.

Statutory Authority for Adoption: Chapter 22.09 RCW.  
Statute Being Implemented: RCW 22.09.400.

Reasons Supporting Proposal: Portions of the WAC are obsolete, duplicative, or cannot be utilized officially in Washington state.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Randall R. Deike, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1921.

Name of Proponent: Canola Commission, [governmental].

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

Explanation of Rule, its Purpose, and Anticipated Effects: Chapter 16-213 WAC, Miscellaneous agricultural commodity inspection standards provides inspection definitions and procedures for some commodities grown in or handled in the state of Washington. Executive Order 97-02, Regulatory Improvement, requires agencies to review regulations to determine if the rule should be retained in current form or be amended or repealed. On review of chapter 16-213 WAC, portions of the current WAC were found obsolete or duplicative

of federal standards. Safflower seed inspection procedures, WAC 16-213-010, 16-213-100, 16-213-110, 16-213-120, and 16-213-130; inspection and certification of shiplots and combined lots of Washington buckwheat, WAC 16-213-220; Washington stowage examinations, WAC 16-213-230, and rapeseed inspection procedures, WAC 16-213-240 and 16-213-250, are not utilized and the same or similar services are available under United States Department of Agriculture standards and instructions. The proposal to repeal the portions of chapter 16-213 WAC listed above will create a WAC that is compliant with the intent of Executive Order 97-02 and will continue to offer necessary services to the state of Washington.

Proposal Changes the Following Existing Rules: The proposed repeal of WAC 16-213-010, 16-213-100, 16-213-110, 16-213-120, 16-213-130, 16-213-220, 16-213-230, 16-213-240, and 16-213-250 will change chapter 16-213 WAC.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There will be no impact from the proposed change. The WACs proposed for repeal are not utilized. The services provided under the subject WACs are available and provided routinely by the Washington State Department of Agriculture under United States Department of Agriculture standards and instructions.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The department is exempt from these provisions.

Heating Location: Washington State Department of Agriculture, Natural Resources Building, Room 172, 1111 Washington Street, Olympia, WA 98504, on March 21, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Mary Frazier by March 14, 2000, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Randall R. Deike, Grain Inspection Program Manager, Commodity Inspection, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2085, by March 22, 2000, 5:00 p.m.

Date of Intended Adoption: March 30, 2000.

February 10, 2000

Robert W. Gore

Assistant Director

Commodity Inspection Division

**AMENDATORY SECTION** (Amending Order 1812, filed 3/2/84)

**WAC 16-213-200 Buckwheat inspection definitions.**

(1) "Buckwheat" means grain which before the removal of dockage consists of fifty percent or more of whole kernels of buckwheat (domestic varieties). The term "buckwheat" in these standards shall not include wild buckwheat.

(2) "Dockage" means all matter other than buckwheat which can be readily removed from a test portion of the original sample by use of the approved device in accordance with the procedures as set down in these standards.

(3) "Foreign material" means all matter other than buckwheat which remains in the sample after the removal of dockage.

(4) "Moisture" means a percentage ascertained by the air oven or by any device and method which gives equivalent results.

(5) "Percentages" means percentages ascertained by weight except in the case of moisture.

(6) "Sample grade buckwheat" means buckwheat which has a commercially objectionable foreign odor; or is musty, sour, heating, or hot; or contains eight or more stones per one thousand grams; or fails to meet the grade requirements of Washington numerical grades, or is otherwise distinctly low quality.

(7) "Stones" means concreted, earthy, or mineral matter or other substances of similar hardness that do not disintegrate readily in water.

(8) "Test weight per bushel" means the weight as determined per Winchester bushel (35.24 liters) or as determined by any device and method which gives equivalent results.

(9) "Type" of buckwheat (large or small) means the result determined by sizing a portion using an 8/64 x 3/4 slotted sieve, and shall be added to and made a part of the grade designation.

(a) The designation shall be "large" when twenty percent or less of the buckwheat passes through an 8/64 x 3/4 slotted sieve.

(b) The designation shall be "small" when more than twenty percent of the buckwheat passes through an 8/64 x 3/4 slotted sieve.

(10) "Weevily" buckwheat shall be buckwheat that is infested with live weevils or other insects injurious to stored buckwheat.

AMENDATORY SECTION (Amending Order 1919, filed 3/26/87)

**WAC 16-213-260 Cracked corn, corn screenings, and mixed grain screenings inspection definitions.** (1) "Cracked corn" is a byproduct of the elevating, transporting, or cleaning of corn. Cracked corn is the entire corn kernel, broken, ground, or fractured. Cracked corn may contain incidental whole kernels of corn. Cracked corn may be "yellow" or "white" if one color constitutes ninety percent or more of the mixture. Cracked corn may not contain more than four percent of admixture (foreign material).

(2) "Corn screenings" is a byproduct of the elevating, transporting, or cleaning of corn. Corn screenings is the entire corn kernel, broken, ground, or fractured. Corn screenings may contain incidental whole kernels of corn. Corn screenings must consist of seventy percent or more of corn, whole and broken, and may contain not more than thirty percent of admixture.

(3) "Mixed grain screenings" is a byproduct of the elevating, transporting, or cleaning of grain. Grain screenings is the entire grain kernel, broken, ground, or fractured. Mixed grain screenings may contain incidental whole kernels of grain. Mixed grain screenings must consist of seventy percent or more of whole, light, and broken kernels of wheat, barley, oats, corn, rye, flaxseed, sorghum, triticale, soybeans, or wild

oats in combination. Mixed grain screenings may contain not more than thirty percent of other foreign material.

(4) "Admixture" in cracked corn or corn screenings means foreign material and standardized grains other than corn.

(5) "Other foreign material" in mixed grain screenings means material other than standardized grains under the United States Grain Standards Act and wild oats.

(6) "Test weight per bushel" means the weight per winchester bushel (35.24 liters) or as determined by any device and method which gives equivalent results.

(7) "Moisture" means a percentage ascertained by the air oven method or by any device and method which gives equivalent results.

AMENDATORY SECTION (Amending Order 1919, filed 3/26/87)

**WAC 16-213-270 Cracked corn, corn screenings, and mixed grain screenings inspection procedures.** (1) The determination of cracked corn, yellow or white in cracked corn, corn screenings or mixed grain screenings shall be made on a representative portion of approximately thirty grams cut from the representative sample.

(a) In the case of cracked corn and corn screenings, the percentage of admixture shall be determined and recorded on the inspection certificate in whole and tenths of a percent to the nearest tenth of a percent.

(b) In the case of mixed grain screenings, the percentage of other foreign material shall be determined and recorded on the inspection certificate in whole and tenths of a percent to the nearest tenth of a percent.

(2) The determination for moisture shall be made on a representative portion of the sample of exactly two hundred fifty grams cut from the work sample. The percentage of moisture is determined by using the motomco moisture meter or other device that yields equivalent results. The percentage of moisture shall be recorded on the inspection certificate in whole and tenths of a percent to the nearest tenth of a percent.

(3) The determination of test weight per bushel shall be made on a representative portion of the sample ranging in size from one and one-eighth to one and one-fourth quarts. The test weight per bushel shall be recorded on the inspection certificate in whole and half pounds. A fraction of a half pound shall be disregarded.

(4) The examination of shiplots and combined lots of cracked corn, corn screenings and mixed grain screenings.

(a) When examining a shiplot or combined lot of cracked corn, corn screenings or mixed grain screenings, an individual subplot sample may exceed the limit for admixture in cracked corn and corn screenings and the limit of other foreign material in mixed grain screenings by up to two percent provided that:

(i) The weighted or mathematical average for the lot as a whole is within the prescribed limits of the applicable definition; and

(ii) The preponderance of the lot by weight meets the applicable definition.

(b) The certificate for a lot must show the following:

PROPOSED

PROPOSED

- (i) The term cracked corn, corn screenings or mixed grain screenings.
- (ii) The approximate weight of the lot.
- (iii) In the case of cracked corn or corn screenings, the percentage of admixture.
- (iv) In the case of mixed grain screenings, the percentage of other foreign material.
- (v) The presence of sour, musty, or commercially objectionable foreign odors, an unknown foreign substance, live weevils or other live insects injurious to stored grain, glass, rodent pellets or the presence of other factors likely to adversely affect the quality of the cracked corn, corn screenings, or mixed grain screenings shall be noted in remarks on the certificate.
- (c) At the request of the applicant, the certificate for a lot may show the following:
  - (i) In the case of cracked corn, the terms yellow or white.
  - (ii) The percentage of moisture.
  - (iii) The test weight per bushel.
  - (iv) In remarks, "We certify that cracked corn (or corn screenings) is not residue or waste from food industries. It is corn cracked during transportation or handling."

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 16-213-010	Promulgation.
WAC 16-213-100	Safflower seed standards—Definitions.
WAC 16-213-110	Application of standards.
WAC 16-213-120	Grades, grade requirements, and grade designations.
WAC 16-213-130	Special grades for safflower seed.
WAC 16-213-220	Inspection and certification of shiplots and combined lots of Washington buckwheat.
WAC 16-213-230	Washington stowage examinations.
WAC 16-213-240	Rapeseed inspection definitions.
WAC 16-213-250	Rapeseed inspection procedures.

**WSR 00-05-049**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
 [Filed February 14, 2000, 10:55 a.m.]

Original Notice.  
 Preproposal statement of inquiry was filed as WSR 00-01-154.

Title of Rule: Chapter 308-93 WAC, General provisions for registration of vessels.

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

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

Statutory Authority for Adoption: RCW 88.02.100.

Summary: Repealing WAC 308-93-165 Other numbers prohibited and amending WAC 308-93-650 Title purpose only.

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

Name of Agency Personnel Responsible for Drafting: Patrick J. Zlateff, 1125 Washington Street S.E., Olympia, 902-3718; Implementation and Enforcement: Evelyn Barker, 1125 Washington Street S.E., Olympia, 902-3680.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The anticipated effects will be a clarification of the above mentioned requirements.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.030 (1)(a). The proposed rule making does not impose more than a minor cost on businesses in an industry.

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

Hearing Location: Highways-Licenses Building, Conference Room 107, 1125 Washington Street S.E., Olympia, WA 98507, on March 22, 2000, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Patrick J. Zlateff by March 22, 2000, TDD (360) 664-8885, or (360) 902-3718.

Submit Written Comments to: Patrick J. Zlateff, Rules Coordinator, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, fax (360) 664-0831, by March 21, 2000.

Date of Intended Adoption: April 18, 2000.

February 14, 2000

Deborah McCurley, Administrator  
 Title and Registration Services

**AMENDATORY SECTION** (Amending Order TL-RG-19, filed 11/19/85)

**WAC 308-93-650 Title purpose only.** ~~((Nothing in chapter 88.02 RCW or chapter 308-93 WAC shall be construed to prevent any person entitled thereto from securing))~~  
Can I obtain a certificate of ownership for my vessel without securing a vessel registration number and decal? Yes, you may obtain a certificate of ~~((title upon))~~ ownership for a vessel without securing a ~~((certificate of))~~ registration number and vessel decal ~~((when, in the judgment of the director of licensing, it is proper to do so)).~~

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 308-93-165 Other numbers prohibited.

**WSR 00-05-050**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
 [Filed February 14, 2000, 10:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-01-153.

Title of Rule: Chapter 308-94 WAC, General provisions for registration of snowmobiles.

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

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

Statutory Authority for Adoption: RCW 46.01.110.

Summary: Repealing WAC 308-94-010 Registration of snowmobiles and 308-94-160 Registration and titling of off-road and nonhighway vehicles.

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

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: The anticipated effects will be a clarification of the above mentioned requirements.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.030 (1)(a). The proposed rule making does not impose more than a minor cost on businesses in an industry.

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

Hearing Location: Highways-Licenses Building, Conference Room 107, 1125 Washington Street S.E., Olympia, WA 98507, on March 22, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patrick J. Zlateff by March 21, 2000, TDD (360) 664-8885, or (360) 902-3718.

Submit Written Comments to: Patrick J. Zlateff, Rules Coordinator, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, fax (360) 664-0831, by March 21, 2000 [2000].

Date of Intended Adoption: April 18, 2000.

February 14, 2000

Deborah McCurley, Administrator  
 Title and Registration Services

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 308-94-160 Registration and titling of off-road and nonhighway vehicles.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 308-94-010 Registration of snowmobiles.

**WSR 00-05-056**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
 [Filed February 15, 2000, 8:41 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-01-154.

Title of Rule: Chapter 308-93 WAC, General provisions for registration of vessels.

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

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

Statutory Authority for Adoption: RCW 88.02.100.

Summary: Amending WAC 308-93-145 Vessel registration numbers—Display, size, color.

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

Name of Agency Personnel Responsible for Drafting: Patrick J. Zlateff, 1125 Washington Street S.E., Olympia, 902-3718; Implementation and Enforcement: Evelyn Barker, 1125 Washington Street S.E., Olympia, 902-3680.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The anticipated effects will be a clarification of the above-mentioned requirements.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.030 (1)(a). The proposed rule making does not impose more than a minor cost on businesses in an industry.

PROPOSED

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

Hearing Location: Highways-Licenses Building, Conference Room 107, 1125 Washington Street S.E., Olympia, WA 98507, on March 22, 2000, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Patrick J. Zlateff by March 22, 2000, TDD (360) 664-8885, or (360) 902-3718.

Submit Written Comments to: Patrick J. Zlateff, Rules Coordinator, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, fax (360) 664-0831, by March 21, 2000.

Date of Intended Adoption: April 18, 2000.

February 14, 2000

Deborah McCurley, Administrator  
Title and Registration Services

**AMENDATORY SECTION** (Amending WSR 99-21-097, filed 10/20/99, effective 11/20/99)

**WAC 308-93-145 Vessel registration numbers—Display, size, color.** (1) **What vessels are required to display a vessel registration number?** All vessels that are required to be registered under chapter 88.02 RCW except vessels documented with the United States Coast Guard, are required to display the vessel registration numbers.

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

- (a) Uniquely identify the vessel, similar to license plate numbers for vehicles;
- (b) Are assigned by the department when you apply for initial registration for your vessel;
- (c) Are printed on your registration certificate and certificate of ownership;
- (d) The department does not provide any physical material for you to apply to your vessel.

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

- (a) Be painted on or permanently attached to each side of the forward half of the vessel except as allowed by subsection (6) of this section or required by subsection ((7)) (8) of this section and must be on a vertical surface;
- (b) Be in plain vertical block characters of not less than three inches in height;
- (c) Contrast with the color of the background and be distinctly visible and legible;
- (d) Have spaces or hyphens that are equal to the width of a letter other than "I" or a number other than "1" between the letter and number groupings (example: WN 5678 EF or WN-5678-EF); and
- (e) Read from left to right.

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

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

- (a) The department assigned dealer vessel registration number must be painted on or attached to a backing plate;
- (b) The department issued decal must be affixed within six inches aft of and directly on line with the dealer registration number as provided by WAC 308-93-145(4); and
- (c) The backing plate shall be attached to the forward half of the vessel so that the number is visible from each side of the vessel when observed from outside the vessel.

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

(7) **Are any numbers other than those issued by an issuing authority allowed on the front half of my vessel? No person may use a vessel on the waters of this state that has any number that is not issued by an issuing authority for that vessel on its forward half.**

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

**WSR 00-05-058**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed February 15, 2000, 10:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-08-069 on April 5, 1999.

Title of Rule: Administrative rules (inspections and citations, penalties, WISHA appeals, and variances) in chapters 296-27 and 296-350 WAC.

Purpose: We proposed changes to chapters 296-27 and 296-350 WAC for the following reasons:

- Some of the rules are outdated and inconsistent with current policy.
- Many of the rules are written poorly and thus confusing.
- Other rules are unnecessary and should be repealed.

- The chapters are poorly organized and contain rules on the same subject in different locations.

**Inspections and Citations:** The proposed wording simplifies and clarifies current rules for inspections and citations, making them easier to understand. We moved the rules related to inspections from chapter 296-27 WAC into chapter 296-350 WAC, improving the organization and making them easier to find. We repealed unnecessary rules and removed outdated language.

**Civil Penalties:** The proposed changes include promulgating and revising rules for WISHA's assessment of civil penalties. The civil penalty rules provide employers with advance notice explaining how we calculate penalties. For several years, employers have complained that the penalty assessment process seems arbitrary, mysterious, and unfair. This has led to an increase in WISHA appeals, as well as increased anger towards the regulatory process. Additionally, several judges at the Board of Industrial Insurance Appeals have requested that we adopt WAC rules about how we calculate penalties. The new rules will provide a means to increase the understanding of the process and lessen the confusion surrounding penalties.

**WISHA Appeals:** Current rules regarding when the department reassumes jurisdiction of citations and notices are written ambiguously. Persons affected by these rules often cannot easily understand their rights or what is expected of them. We wrote these rules in plain language to make them easier to find and understand.

**Variations from WISHA Rules:** Proposed wording clarifies and simplifies the existing rules, making them easier to understand. We also removed outdated language.

This proposal is part of the agency's implementation of the Governor's Executive Order on Regulatory Improvement (97-02), and part of our effort to improve WISHA safety and health rules. It eliminates outdated and unnecessary rules; makes existing rules much easier to understand; improves the organization of the rules; and gives employers notice of department policies that directly affect them.

### Description of changes

**General description of changes.** These are interpretive rules. The proposed changes include headings to help users find rules more easily. Rules are broken up into small pieces and written in plain language to make them easier to understand. We changed the order of chapter 296-350 WAC so that the rules follow the normal sequence of events.

- Inspections and citations
- Calculating civil penalties for violations
- Extension of abatement dates (no changes included in this proposal)
- WISHA appeals
- Variations from WISHA rules

### Amended Section

**Title of chapter 296-350 WAC.** Changes to read "WISHA Administrative Rules."

**WAC 296-350-010 Definitions.** Maintains and clarifies those terms used in proposal. The definitions in this section will apply to all of chapter 296-350 WAC. We removed sub-

section numbers. The following list describes the changes made in the proposal for the current definitions and the proposed new definitions.

- Abatement date. Maintained and clarified this definition. Added reference to corrective notice.
- Act. Removed because this word is no longer used.
- Assistant director. Removed because this word is no longer used. Replaced with "we," "us," and "our."
- Board. Added new definition.
- Citation. Changes to "Citation and Notice." Clarified using plain language. Removed form number.
- Corrective Notice. Added new definition.
- Division. Removed because this word is no longer used. Replaced with "we," "us," and "our."
- Interim order. Added new definition.
- Permanent variances. Added new definition.
- Presiding officer. Removed because this word is no longer used.
- Temporary variances. Added new definition.
- Variations. Added new definition.
- We, us and our. Added new definitions that replace "assistant director" and division to explain use of first person in proposed new rules.
- Working days. Added new definition.
- You and your. Added new definitions to explain use of second person in proposed new rules.

### Proposed New Sections

**Inspections and citations:** General information. The current rules related to inspections, located in chapter 296-27 WAC, were adopted in 1981 and 1987, with some changes in 1991 and 1994. The proposal makes these rules much easier to understand and reduces the number of pages by:

- Moving rules related to inspections from chapter 296-27 WAC into chapter 296-350 WAC so they will be located with other administrative rules.
- Improving the organization and separating into smaller pieces.
- Clarifying and explaining the essential rules.
- Removing outdated and unnecessary rules.
- Incorporating and combining information from WAC 296-350-400 through 296-350-470.

We will repeal WAC 296-27-160 through 296-27-16023 when the new rules are adopted into chapter 296-350 WAC.

**WAC 296-350-100 Inspections and citations,** general description. Includes reference to the statute that these rules interpret. Includes a reference to no fee consultations and other technical assistance.

**WAC 296-350-10010 Selecting workplaces to inspect,** describes how WISHA selects workplaces to inspect. Includes some of the existing language in WAC 296-27-16020 (1) and (2) and WAC 296-27-16018(1).

**WAC 296-350-10020 Inspections—Site visit,** provides information about a site visit that simplifies existing language in WAC 296-27-16003. Retains information about the physical inspection and whom the department may privately question during an inspection. We removed outdated and unnecessary language from WAC 296-27-16003, making the rules easier to understand.

**WAC 296-350-10030 Complaints by employees or employee representatives**, clarifies, simplifies, and replaces existing language in WAC 296-350-450, 296-350-460 and 296-350-470, making them easier to understand. Eliminates unnecessary language.

**WAC 296-350-10040 Results of a WISHA inspection—Notice of violations**, clarifies, simplifies, and replaces existing language in WAC 296-27-16007, making them easier to understand. Eliminates unnecessary language.

**WAC 296-350-10050 Posting a citation and notice**, clarifies, simplifies, and replaces existing language in WAC 296-350-400(8), making them easier to understand.

**Civil Penalties:** General information. The proposal includes new sections covering civil penalties that describe how WISHA calculates penalties for safety and health violations. The proposal incorporates current policy from the WISHA compliance manual into WAC rule. These rules clarify and explain how WISHA calculates and assesses penalties, providing employers notice and improving overall awareness. This proposal allows the opportunity for public comment on these rules and will provide a more stable description of department practice in this area.

**WAC 296-350-150 Civil penalties**, general description. Includes reference to the statute that these rules interpret.

**WAC 296-350-15010 Assessing civil penalties—Purpose**, describes when we assess penalties and explains that we use penalties as incentives to encourage voluntary compliance with WISHA safety and health rules.

**WAC 296-350-15015 Minimum penalty amounts**, sets minimum penalties.

**WAC 296-350-15020 Severity and probability determines base penalties**, general descriptions of how base penalties are calculated.

**WAC 296-350-15025 Severity**, describes severity. Includes a table showing the six levels of severity with the most serious injury, illness, or disease likely to result.

**WAC 296-350-15030 Probability**, describes probability and what we consider when determining probability. Includes a list of other factors that might be considered to help employers understand the many factors affecting the probability that an injury, illness, or disease might occur.

**WAC 296-350-15035 Gravity and base penalties**, describes how we calculate base penalties using severity and probability. Includes a table showing gravity and the corresponding penalty amount in dollars. A dollar amount is assigned to each potential gravity.

**WAC 296-350-15040 Adjustments to base penalties**, describes what we consider when adjusting a base penalty. Possible adjustments include those for an employer's good faith, size, and history. Includes three tables showing the amount a penalty would be adjusted. Includes maximum penalty amount set by statute.

**WAC 296-350-15045 Increasing penalty amounts**, describes circumstances when we would apply a multiplier to the adjusted base penalty, increasing the penalty. Describes repeat, willful, egregious, and failure to abate violations and includes the multipliers used. Includes maximum penalty amounts set by statute.

**WISHA Appeals Process:** General information. The current rules were adopted in 1974 with some modification in 1994. The proposal makes these rules easier to understand by: Moving rules related to WISHA appeals after extension of abatement dates in chapter 296-350 WAC so they follow the normal sequence of events; improving the organization and separating into smaller pieces; clarifying and explaining the essential rules; and removing outdated and unnecessary rules.

It is not the intention of this proposal to change our current practice and we will continue to provide good customer service. Particularly since the statute, the existing rules and the proposed rules require us to make a final determination within thirty days of receiving an appeal. We will repeal WAC 296-350-020 through 296-350-095 when the new rules are adopted in WAC 296-350-600 through 296-350-60045 later in this chapter.

**WAC 296-350-600 WISHA appeals**, general description. Includes reference to the statute that these rules interpret.

**WAC 296-350-60010 Filing an appeal—Who, when and where**, clarifies, simplifies, and replaces existing language in WAC 296-350-030, making them easier to understand. Tells who may file an appeal, when an appeal must be filed, and where to file an appeal.

**WAC 296-350-60015 What must be in a WISHA Appeal**, clarifies, simplifies, and replaces existing language in WAC 296-350-040, making them easier to understand. Describes what must be in an appeal by listing items for employers and employees separately.

**WAC 296-350-60020 Why we reassume jurisdiction**, clarifies and replaces existing language in WAC 296-350-020, making them easier to understand. The last two bullet points provide more information to better explain this process.

**WAC 296-350-60025 Reassuming jurisdiction or forwarding an appeal to the board**, clarifies, simplifies, and replaces some of the existing language in WAC 296-350-050 about what happens with your appeal. We also split the current language in WAC 296-350-050. See proposed WAC 296-350-60030.

**WAC 296-350-60030 Reviewing appeals and extending review time**, clarifies, simplifies, and replaces some of the existing language in WAC 296-350-050 about reviewing and extending department review of your appeal. See proposed WAC 296-350-60025.

**WAC 296-350-60035 Informal WISHA conferences**, clarifies, simplifies, and replaces existing language in WAC 296-350-070 and 296-350-080(1), eliminating unnecessary wording.

**WAC 296-350-60040 Issuing and appealing corrective notices**, clarifies, simplifies, and replaces some of the existing language in WAC 296-350-080 and all of WAC 296-350-090.

**WAC 296-350-60045 Notifying employees**, clarifies, simplifies, and replaces some of the existing language in WAC 296-350-060 and 296-350-080(2). Includes a list of



what you must post, that notices must be posted in a conspicuous place, and for how long.

**Variations from WISHA Rules:** General information. The current rules were adopted in 1974 with the most recent changes made in 1994. Because the current rules are very difficult to understand, it makes it difficult for people to request variances from WISHA rules.

The proposal makes these rules easier to find and understand by:

- Moving rules related to variances later in chapter 296-350 WAC so that they are at the end of the chapter and following inspections, penalties, and appeals.
- Improving the organization and separating into smaller pieces.
- Clarifying and explaining the essential rules.
- Removing outdated and unnecessary rules.

We will repeal WAC 296-350-200 through 296-350-280 when the new rules are adopted in WAC 296-350-700 through 296-350-70070 later in this chapter.

**WAC 296-350-700 Variance from WISHA rules,** general description. Includes reference to the statute that these rules interpret.

**WAC 296-350-70010 Purpose of variances,** clarifies, simplifies, and replaces the existing language in WAC 296-350-200 and some of WAC 296-350-210. Provides a list.

**WAC 296-350-70015 Permanent variances—Description,** clarifies and replaces the existing language in WAC 296-350-210(3).

**WAC 296-350-70020 Temporary variances—Description,** clarifies and replaces some of the existing language in WAC 296-350-210 and 296-350-250.

**WAC 296-350-70025 Interim orders—Description and requesting,** clarifies and replaces the existing language in WAC 296-350-260 (1) and (2). We combine the description and requesting since there is so little involved in requesting an interim order. Note that the department may issue and interim order even when not requested.

**WAC 296-350-70030 Requesting a permanent variance,** clarifies, simplifies, and replaces some of the existing language in WAC 296-350-240, 296-350-255, and 296-350-280. Lists what must be in a permanent variance request. Includes a new paragraph that must be included on the first page of your variance application, notifying employees of your application. Also clarifies the cut-off date relating to when the department must receive requests for a variance hearing.

**WAC 296-350-70035 Requesting a temporary variance,** clarifies, simplifies, and replaces some of the existing language in WAC 296-350-240, 296-350-250, and 296-350-280. Lists what must be in a temporary variance request.

**WAC 296-350-70040 Renewing temporary variances,** clarifies and puts into rule language in RCW 49.17.080(1) about when you may request a renewal of a temporary variance.

**WAC 296-350-70045 Submitting variance requests,** clarifies, simplifies, and replaces the existing language in WAC 296-350-250(1), 296-350-255(1), and 296-350-260(1)

about how to submit variance requests. Corrects address and name of division.

**WAC 296-350-70050 Notifying employees about variance requests,** clarifies, simplifies, and replaces some of the existing language in WAC 296-350-250(2), 296-350-255(2), and 296-350-260 about notifying employees before you have requested a variance.

**WAC 296-350-70055 Department review and decision,** clarifies, simplifies, and replaces the existing language in WAC 296-350-230 and 296-350-270.

**WAC 296-350-70060 Your responsibilities once we make a decision,** clarifies that employers must notify employees when requesting variances and abide by the requirements specified in the variance. See existing language in WAC 296-350-250(2), 296-350-255(2), and 296-350-260 and chapter 49.17 RCW.

**WAC 296-350-70065 Changing a variance,** clarifies and puts into rules language from RCW 49.17.080 and 49.17.090 about changing variances. Subsection (4) relates to proposed WAC 296-350-70070 and current WAC 296-350-280 about variance hearings.

**WAC 296-350-70070 Variance hearings,** clarifies, simplifies, and replaces the existing language in WAC 296-350-280 about variance hearings. Eliminates outdated and unnecessary rules.

**WAC 296-27-150 Effective date of regulations,** repeal unnecessary section with old effective dates.

#### Proposed Repealed Sections

**WAC 296-27-150 Effective date of regulations,** repealed unnecessary section with old effective dates.

**WAC 296-27-160 through 296-27-16026,** repealed sections related to inspections. Moved essential rules to the beginning of chapter 296-350 WAC (see description of proposed WAC 296-350-100 through 296-350-10050).

**WAC 296-350-020 through 296-350-095,** repealed sections related to WISHA appeals and reassumptions. Moved essential rules later in this chapter (see description of proposed WAC 296-350-600 through 296-350-60045).

**WAC 296-350-200 through 296-350-280,** repealed sections related to variances. Moved essential rules later in this chapter (see description of proposed WAC 296-350-700 through 296-350-70070).

**WAC 296-350-400 through 296-350-470,** repealed sections related to citations and complaints. Incorporated essential rules into proposed WAC 296-350-100 through 296-350-60045 with rules related to inspections.

Statutory Authority for Adoption: RCW 49.17.010, [49.17].040, and [49.17].050.

Statute Being Implemented: Chapter 49.17 RCW.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Michael A. Silverstein, Tumwater, (360) 902-5495.

Name of Proponent: Department of Labor and Industries, governmental.

PROPOSED

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 proposal contains a set of interpretative rules for chapter 49.17 RCW. Proposed changes do not impose any new costs on employers. Changes explain and clarify current rules using plain language; put current policy in rule; remove outdated and unnecessary requirements; and improve the organization of rules to make it easier to find and understand them.

RCW 34.05.328 does not apply to this rule adoption. This proposal contains a set of interpretative rules (see RCW 34.05.328 (5)(c)(ii) and (iii)). The proposed changes place the agency's current interpretations chapter 49.17 RCW into Washington Administrative Code (WAC) and convert existing policy into rule form as encouraged by the Governor's Executive Order (97-02) on Regulatory Improvement.

No additional burden is placed on any employer by these rules. Nor are any compliance burdens to employers created by these rules.

This proposal clarifies the existing rules using plain language, eliminates outdated and unnecessary rules, improves the organization, and places current policy into rules, making it easier to find and understand the rules.

Hearing Location: Department of Labor and Industries Building, Auditorium, 7273 Linderson Way S.W., Tumwater, WA, on March 23, 2000, at 1:00 p.m.

Assistance for Persons with Disabilities: Call (360) 902-5484 by March 13, 2000, for assistance.

Submit Written Comments to: By mail to Tracy Spencer, Standards Manager, WISHA Services Division, P.O. Box 44620, Olympia, WA 98504-4620, by fax (360) 902-5529 (comments submitted by fax must be ten pages or less), or by electronic mail to Christy Wood, WISHA Standards Project Manager at woch235@lni.wa.gov. Comments must be received no later than March 29, 2000.

Date of Intended Adoption: No earlier than May 1, 2000.

February 15, 2000

Gary Moore

Director

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 296-27-150            Effective date of regulations.
- WAC 296-27-160           Safety and health inspections.
- WAC 296-27-16001        Definitions.
- WAC 296-27-16002        Inspection hours.
- WAC 296-27-16003        Inspection format.

- WAC 296-27-16004        Interprogram referrals.
- WAC 296-27-16007        Citations, penalty assessments and notices of violations.
- WAC 296-27-16011        Refusal or limitation of inspection.
- WAC 296-27-16018        Compliance inspections.
- WAC 296-27-16020        Inspection selection, scheduling criteria, and limit on number of inspections.
- WAC 296-27-16022        Unprogrammed inspections, follow-up inspections, monitoring inspections, and "high hazard" inspections.
- WAC 296-27-16026        Programmed inspections.

**Chapter 296-350 WAC**

**~~((REASSUMPTION OF JURISDICTION PURSUANT TO RCW 49.17.140))~~ WISHA ADMINISTRATIVE RULES**

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

**WAC 296-350-010 Definitions.** ~~(((1) The definitions and interpretations of RCW 49.17.020 shall apply to the provisions of this chapter unless the context of the provision clearly requires otherwise.~~

~~(2) "Presiding officer" means that person designated by the director as being responsible for the conducting of the informal conference provided for in RCW 49.17.140(3) and WAC 296-350-070.~~

~~(3) "Act" means the Washington Industrial Safety and Health Act (chapter 80, Laws of 1973; chapter 49.17 RCW) as now or hereafter amended.~~

~~(4) "Assistant director" shall mean the assistant director of consultation and compliance of the department, or his/her designated representative.~~

~~(5) "Citation" shall mean that CITATION issued to an employer in accordance with the provisions of RCW 49.17.120, otherwise known as a CITATION AND NOTICE (Form No. WISHERS 110.)~~

~~(6) "Abatement date" shall mean the date identified as such on the CITATION. The "abatement date" is the date by which the condition identified in the CITATION must be brought into compliance with the cited safety and health standard.~~

~~(7) "Division" shall mean the division of consultation and compliance of the department.)~~ The following definitions apply to terms used in chapter 296-350 WAC.

Abatement date means the date on the citation when you must comply with specific safety and health standards listed on the citation and notice of assessment or the corrective notice of redetermination.

Board means the board of industrial insurance appeals.

PROPOSED

**Citation and notice** refers to the citation issued to an employer under RCW 49.140.120 for any violations of WISHA safety and health rules, also known as a citation and notice of assessment.

**Corrective notice** refers to a corrective notice of re-termination issued after we have reassumed jurisdiction over a citation and notice.

**Interim order** is an order we grant allowing you to vary from WISHA requirements until we have determined whether to grant either a permanent or temporary variance.

**Our** refers to the department of labor and industries.

**Permanent variance** is an order we grant allowing you to vary from WISHA requirements when you use alternate means that provides equal worker protection. It is in effect until we modify or revoke it.

**Temporary variance** is an order we grant allowing you to vary from WISHA requirements under certain circumstances (see WAC 296-350-70020).

**Us** refers to the department of labor and industries.

**Variations** refers to any order granted by us allowing you to vary from WISHA safety and health rules, including a permanent variance, temporary variance, or interim order.

**We** means the WISHA services division of the department of labor and industries and any other divisions charged with enforcing chapter 49.17 RCW, Washington Industrial Safety and Health Act.

**Working days** mean weekdays that do not fall on state holidays (see RCW 1.16.050 for a complete description of state holidays). State holidays include:

- January 1—New Year's Day;
- Martin Luther King, Jr. Day;
- Presidents' Day;
- Memorial Day;
- July 4—Independence Day;
- Labor Day;
- November 11—Veterans' Day;
- Thanksgiving Day;
- The day after Thanksgiving Day; and
- December 25—Christmas Day.

**You** means the employer as defined in RCW 49.17.020.

**Your** refers to the employer as defined in RCW 49.17.020.

## INSPECTIONS AND CITATIONS

### NEW SECTION

**WAC 296-350-100 Inspections and citations.** You will find rules covering WISHA inspections and citations in WAC 296-350-10010 through 296-350-10050. These rules interpret chapter 49.17 RCW. These inspections are distinct from other services provided by us, such as, no fee consultations and other technical assistance.

### NEW SECTION

**WAC 296-350-10010 Selecting workplaces to inspect.** (1) Programmed inspections. We identify hazardous

workplaces to inspect based on objective criteria. We use inspection, scheduling systems that may look at any of the following:

- Type of industry;
  - Available data of injuries and illnesses where an inspection might eliminate the hazards causing them;
  - The employer's industrial insurance experience;
  - The number, type and toxicity of contaminants at the workplace;
  - The degree of exposure to hazards; and
  - The number of employees exposed.
- (2) We review the scheduling systems periodically, and may adjust the factors used and the weight given to each factor.

(3) We may conduct routine programmed inspections in the following high hazard industries:

- Agriculture;
- Asbestos renovation and demolition;
- Construction;
- Electrical utilities and communications;
- Logging; and
- Maritime.

(4) We conduct "unprogrammed inspections" of workplaces we believe may be in violation of safety or health rules chapter 49.17 RCW, Washington Industrial Safety and Health Act. Unprogrammed inspections may result from:

- Complaints from employees, former employees, or employee representatives who believe they are or have been exposed to a hazard because of a violation; or
- Referrals from anyone else who reasonably believes workers under our jurisdiction are exposed to a hazard at work because of a violation.

We may also initiate comprehensive inspections based on such investigations.

(5) We investigate workplace deaths and serious injuries or illnesses to determine whether they were caused by a violation of safety or health rules or chapter 49.17 RCW, Washington Industrial Safety and Health Act. We may also initiate comprehensive inspections based on such investigations.

(6) We inspect workplaces when we have reason to believe that employees may be in imminent danger of serious injury or death.

(7) Scheduling of WISHA inspections is intended to distribute available staff as efficiently as possible to ensure the maximum level of worker protection.

(8) We may conduct follow-up inspections to verify that you have abated any hazard for which you were previously cited.

### NEW SECTION

**WAC 296-350-10020 Inspections—Site visit.** (1) During the physical inspection of the workplace, the inspector may:

- Take samples, photographs, video tapes, or audio tapes;
- Conduct tests;
- Have employees wear sampling devices;
- Conduct interviews; and
- Employ other reasonable investigative techniques.

(2) We can privately question any of the following:

- You;
- Your representative;
- Any owner;
- Any operator;
- Employee; or
- Employee representative.

#### NEW SECTION

**WAC 296-350-10030 Complaints by employees or employee representatives.** (1) The name of the person who files a complaint with us and the names of any individual employees referred to in the complaint will be removed from the copy of the complaint we give to you, unless the person making the complaint gives us written permission to release the names.

(2) We will provide the results of any complaint inspection to the person making a complaint, or we will inform the person making a complaint if we decide not to conduct an inspection as a result of the complaint.

(3) We will review the decision not to conduct an inspection or not to issue a citation with respect to any violation alleged in the complaint, if requested in writing by the person making a complaint. We will notify the person in writing the results of that review. If complainants are not satisfied after an initial review, they may request that the assistant director for WISHA services or a designee review the file.

#### NEW SECTION

**WAC 296-350-10040 Results of a WISHA inspection—Notice of violations.** If we find safety or health violations, we will mail a citation and notice to you no more than six months following the inspection or investigation. The citation and notice will include any violations found, any penalties, and how much time you have to correct the violations. Normally when we do not find any violations, we will send you a citation and notice with a message indicating that no violations were found.

#### NEW SECTION

**WAC 296-350-10050 Posting a citation and notice.** When you receive a citation and notice or any correspondence related to an employee complaint, you must notify your employees by:

- Posting it on your safety bulletin board for three working days or until all violations have been abated, whichever is longer;
- Mailing a copy to any authorized representative employees have; and
- Using other appropriate means for employees who cannot be expected to receive notice by either of the above methods.

## CIVIL PENALTIES

#### NEW SECTION

**WAC 296-350-150 Civil penalties.** You will find rules covering WISHA's use of civil penalties in WAC 296-350-150 through 296-350-15045. These rules interpret RCW 49.17.180.

#### NEW SECTION

**WAC 296-350-15010 Assessing civil penalties—Purpose.**

- We may assess civil penalties when a citation and notice is issued for any health and safety violations found during an inspection.
- We will assess civil penalties when we issue a citation alleging a serious violation, as well as under certain other circumstances specified by statute.
- Penalties provide an incentive to correct violations voluntarily before an inspection takes place. The penalty amounts are intended to provide an incentive to both the offending employer and to other employers who may have the same violations in their workplace.

#### NEW SECTION

**WAC 296-350-15015 Minimum penalty amounts.**

- Any penalty assessed will be at least \$100.
- Penalties for willful violations will be at least \$5,000 per violation.

## HOW PENALTIES ARE CALCULATED

#### NEW SECTION

**WAC 296-350-15020 Severity and probability determine base penalties.** Except where otherwise specified by statute, we determine the base penalty for a violation by evaluating:

- The severity of the injury, illness, or disease that could result from the alleged hazard; and
- The probability that an injury, illness, or disease could occur as a result of the alleged hazard.

#### NEW SECTION

**WAC 296-350-15025 Severity.** Severity rates how serious the injury, illness, or disease might be relative to the hazardous condition. Severity ranges from one (lowest) to six (highest), using whole numbers. Severity is based on the most serious injury, illness, or disease that could reasonably be expected to result from a hazardous condition (see Table 1). We use severity when calculating a penalty. A violation with a severity of 4, 5, or 6 will be a serious violation.

**Table 1: Severity Ratings**

Severity	Most serious injury, illness, or disease likely to result in:
6	Death from injury, illness or disease; injuries involving permanent severe disability; chronic, irreversible illness.
5	Permanent disability of a limited or less severe nature, injuries or reversible illnesses resulting in hospitalization.
4	Injuries or temporary, reversible illnesses resulting in serious physical harm (but less than 5 or 6 above) and may require removal from exposure or supportive treatment without hospitalization for recovery.
3	Injuries or illness would probably not cause death or serious physical harm, but violations have at least major impact and an indirect relationship to serious injury, illness or disease. Violations could have direct and immediate relationship to safety and health of employees. No need for medical treatment.
2	Nonserious or general violations of minor impact, including violations that have an indirect relationship to nonserious injury, illness or disease. No injury, illness or disease without additional violations.
1	No injury, and not likely to result in injury in the presence of other violations.

**NEW SECTION**

**WAC 296-350-15030 Probability.** Probability rates how likely it is that an injury, illness or disease will occur. It is scored from one (lowest probability) to six (highest probability), using whole numbers. We will consider the number of employees affected when determining probability. Probability does not change the severity.

Other factors we may consider, depending on the situation, include:

- Frequency of employee exposure;
- Instances (number of time the same violation occurs in the workplace);
- How close an employee is to the hazard;
- Weather and other working conditions;
- Employee skill level;
- Employee awareness of the hazard;
- The pace, speed, and nature of the task or work;
- Use of personal protective equipment;
- Amount of exposure (for health violations); and
- Other mitigating or contributing circumstances.

**NEW SECTION**

**WAC 296-350-15035 Gravity and base penalties.** We calculate most base penalties by assigning a weight, called

gravity, to a violation. Gravity is calculated by multiplying the severity of a violation (see WAC 296-350-15025) by its probability (see WAC 296-350-15030).

Formula for gravity:

**Gravity = Severity x Probability**

We use Table 2 to determine the dollar amount for each base penalty. Some rules specify penalty amounts for certain violations.

**Table 2: Penalty Amount Using Gravity**

Gravity	Base Penalty
1	\$100
2	\$200
3	\$300
4	\$400
5	\$500
6	\$1000
8	\$1500
9	\$2000
10	\$2500
12	\$3000
15	\$3500
16	\$4000
18	\$4500
20	\$5000
24	\$5500
25	\$6000
30	\$6500
36	\$7000

**NEW SECTION**

**WAC 296-350-15040 Adjustments to base penalties.** After determining the base penalty, we consider the employer's good faith, size and history when deciding whether to adjust the penalty amount. No adjustments are made for penalties specified by statute.

(1) Good faith adjustments.

An employer's level of good faith may justify increasing or decreasing the base penalty.

No single factor determines good faith. Good faith is a reflection of your efforts before the inspection to provide a safe and healthful workplace for your employees and your efforts to comply with the standard violated. Your cooperation during the inspection may also be considered to the extent that it reflects your attitude toward complying with the cited standard, including immediate efforts to abate the identified hazard.

**Table 3: Good Faith Adjustments**

Good Faith Rating	Adjustment to base penalty
Excellent	35% reduction
Good	20% reduction

PROPOSED

Average	no adjustment
Poor	20% increase

(2) Size adjustments.

The number of employees at all of your workplaces in the state of Washington will determine any size adjustments to the penalty amount.

**Table 4: Size Adjustments**

Number of employees	Adjustment to base penalty
1-25	60% reduction
26-100	40% reduction
101-250	20% reduction
>250	no adjustment

(3) History adjustments.

History reflects your record of safety and health violations in the state of Washington, as demonstrated by previous citations and by injury and illness rates.

**Table 5: History Adjustments**

History Rating	Adjustment to base penalty
Good	10% reduction
Average	no adjustment
Poor	10% increase

(4) After all adjustments are made, the adjusted base penalty cannot exceed seven thousand dollars per violation. See WAC 296-350-15045 for other potential increases.

**NEW SECTION**

**WAC 296-350-15045 Increasing penalty amounts.**

We apply a multiplier to the adjusted base penalty for the following:

- Repeat violations;
- Willful violations;
- Egregious violations;
- Failure to abate a prior violation.

(1) Repeat violations. A repeat violation occurs when we have cited you in the last three years for a similar hazard. The three-year period is measured from the date of the final order for each previous citation. The adjusted base penalty will be multiplied by the total number of inspections with violations (including the current violation) involving similar hazards. The maximum penalty cannot exceed seventy thousand dollars for each violation.

(2) Willful violations. A willful violation is a voluntary action, done either with an intentional disregard of, or plain indifference to, the requirements of the applicable WISHA rule(s). For willful violations, we will multiply the adjusted base penalty by ten, with all willful violations receiving at least the statutory minimum of \$5000. The maximum penalty cannot exceed seventy thousand dollars for each violation.

For example: When management is aware that employees are resistant to following specific WAC rules(s); employee resistance results in an imminent danger situation

or a serious violation; and management fails to make efforts that are effective in practice to overcome the resistance, then we will presume that the failure constitutes voluntary action.

(3) Egregious violations. An egregious violation may be issued for exceptionally flagrant cases involving willful violations. In these cases, we will issue a separate penalty for each instance when you fail to comply with a particular rule.

(4) Failure to abate violations. Failure to abate is when you have been cited previously for a violation of WISHA rules, but have failed to correct the violation on time (abatement verification is covered in WAC 296-27-210 through 296-27-21050). The maximum penalty cannot exceed seven thousand dollars for each day in which such failure or violation continues.

(a) For a general violation that had no initial penalty and a penalty is to be issued, there will be a minimum penalty of \$1000 with possible adjustments for attempts to comply.

(b) For a violation that had an initial penalty:

- We multiply the adjusted base penalty by five based on the facts at the time of reinspection with possible adjustments for attempts to comply; or
- When the employer has failed to make good faith efforts to abate the violation, we may multiply the adjusted base penalty by the number of days past the abatement date as provided in RCW 49.17.180(4).

**WISHA APPEALS PROCESS**

**NEW SECTION**

**WAC 296-350-600 WISHA appeals.** You will find rules covering the WISHA appeals process in WAC 296-350-60010 through 296-350-60045. These rules interpret RCW 49.17.140.

**FILING AN APPEAL**

**NEW SECTION**

**WAC 296-350-60010 Filing an appeal—Who, when and where.** (1) Who may file a notice of appeal?

• Any employer cited for a violation of WISHA's safety and health rules may appeal a citation and notice or a corrective notice.

• Any employee or employee representative who could be affected by a citation or its abatement may appeal the abatement date on the citation and notice or corrective notice.

(2) When must appeals be filed? Appeals must be filed in writing to the department as a written notice of appeal within fifteen working days of receiving the citation and notice. If you mail your notice of appeal, we will consider the postmark as the date you filed the appeal.

(3) Where must appeals be filed?

• Mail to:

Dept. of Labor & Industries  
 WISHA Appeals  
 PO Box 44604  
 Olympia, WA 98504-4604

PROPOSED

- Fax to: (360) 902-5581.
- Bring to: Any department of labor and industries office.

### NEW SECTION

**WAC 296-350-60015 What must be in a WISHA appeal.** (1) **For employers:** Appeals must include:

- Business name, address and telephone number, and the name, address and telephone number of any person representing you if you have one;
- Citation and notice number;
- What you think is wrong with the citation and notice and any related facts; and
- How you think it should be changed (what relief you are seeking and why).

(2) **For employees:** Appeals must include:

- The employee's name, address and telephone number, and the name, address and telephone number of any person representing the employee;
- Citation and notice number; and
- What the employee thinks is wrong with the abatement date.

*Note: See WAC 263-12-056 for related board requirements.*

### **AFTER FILING AN APPEAL**

### NEW SECTION

**WAC 296-350-60020 Why we reassume jurisdiction.** Under RCW 49.17.140(3), we may reassume jurisdiction over any or all issues related to a citation and notice, when it is appealed within fifteen working days. We reassume jurisdiction to:

- Provide the employer and affected employees an opportunity to present relevant information, facts, and opinions during an informal conference;
- Give the employer, affected employees and the department an opportunity to resolve appeals rapidly and without further contest, especially in routine compliance cases;
- Educate employers about the citation and notice, the WISHA appeals process, and WISHA compliance; and
- Review citations, penalties, and abatement dates for fairness and accuracy to ensure quality work by the department.

### NEW SECTION

**WAC 296-350-60025 Reassuming jurisdiction or forwarding an appeal to the board.** After an appeal is filed, we will decide whether to reassume jurisdiction over the citation and notice being appealed.

- If we reassume jurisdiction, we will notify the person filing the appeal in writing.
- If we do not reassume jurisdiction, we send the appeal to the board. The board will send the person filing the appeal a notice with the time and location for any board proceedings.

### NEW SECTION

**WAC 296-350-60030 Reviewing appeals and extending review time.** (1) Reviewing appeals. When the department reassumes jurisdiction, we have thirty working days after receipt of the appeal to gather more information and decide whether to make changes to the citation and notice. We begin counting the first working day after receipt of the appeal. For example, the first day we count for an appeal received on Friday will be Monday for weeks without state holidays.

(2) Extending review period. We may extend the review period for an appeal up to fifteen additional working days when everyone involved agrees to the extension.

### NEW SECTION

**WAC 296-350-60035 Informal WISHA conferences.** During the review period, we will hold an informal conference about the appeal.

- The informal conference is not an evidentiary hearing. It is an opportunity for interested parties to briefly explain their positions and provide any additional information they would like us to consider when we review the citation and notice.

- Although informal, the conference is an official conference. As such, we may record all or part of it. We will tell participants when recording the conference.

### NEW SECTION

**WAC 296-350-60040 Issuing and appealing corrective notices.** (1) Issuing corrective notices. By the end of the review period, we will issue a corrective notice that will reflect any changes we made to the citation and notice. We will send this notice to you and any employee representatives participating in the process.

(2) Appealing corrective notices.

- Anyone who may appeal the citation and notice may appeal the corrective notice (see WAC 296-350-10010(1)).
- Any appeal of a corrective notice must be filed within fifteen working days of receiving it.

### NEW SECTION

**WAC 296-350-60045 Notifying employees.** (1) After filing an appeal, you must post all correspondences with us, including:

- The notice of appeal;
- The notice telling you we reassumed jurisdiction of a citation and notice;
- Any extensions to the review period;
- The notice for an informal conference; and
- Corrective notices.

(2) You must post notices and information about the appeal in a conspicuous place and where you are required to post WISHA citations and notices (see WAC 296-350-10050).

(3) How long must you post notices? You must post:

- The notices of appeal until the appeal is resolved.

- Notices about when we reassume jurisdiction and any extension of review period until the end of review period.
- Notice of an informal conference until after the conference is held.
- Corrective notices for as long as citations and notices are required to be posted.

## VARIANCES FROM WISHA RULES

### NEW SECTION

**WAC 296-350-700 Variance from WISHA rules.** You will find rules covering variances in WAC 296-350-70010 through 296-350-70070. These rules interpret RCW 49.17.080 and 49.17.090.

### NEW SECTION

**WAC 296-350-70010 Purpose of variances.** In certain circumstances, we allow you to deviate from a specific WISHA safety and health standard when you use agency-approved substitute measures to protect workers.

You may request the following as described in WAC 296-350-70015 through 296-350-70025:

- Permanent variances.
- Temporary variances.
- Interim orders.

### NEW SECTION

**WAC 296-350-70015 Permanent variances—Description.** (1) You may request a permanent variance if you can show that you are providing an alternate means of protecting your employees from hazards. These alternative means must be as effective as the methods required by the standard.

(2) We review permanent variances periodically to decide whether they are still needed or need to be changed (see WAC 296-350-70065(1)).

(3) A permanent variance remains in effect unless we modify or revoke it.

### NEW SECTION

**WAC 296-350-70020 Temporary variances—Description.** (1) You may request a temporary variance if you cannot meet one or more WISHA requirements. If you request a temporary variance, you must have an effective plan for coming into compliance with the applicable safety and health standards as quickly as possible because:

- Professional or technical people are not available;
- Materials or equipment are not available; or
- You cannot complete construction or alteration of facilities by the effective date of a standard.

(2) You must show that you are taking all available steps to safeguard your employees against hazards covered by the standard.

(3) Temporary variances remain in effect until you comply with the requirements of current WISHA rules or no longer than one year, whichever is shorter.

(4) You may renew a temporary variance twice for no more than one hundred eighty days each time it is renewed (see WAC 296-350-70040).

### NEW SECTION

**WAC 296-350-70025 Interim orders—Description and requesting.** (1) You may request an interim order when requesting a permanent or temporary variance, or anytime after. Interim orders allow you to vary from existing WISHA requirements until we make a final decision on your variance request.

(2) We may choose to issue an interim order in response to a variance request, even when the interim order was not specifically requested.

(3) Our decision to grant or deny an interim order will not restrict our decision on a permanent or temporary variance request.

(4) Interim orders will be effective until revoked or until we approve or deny your variance request.

### NEW SECTION

**WAC 296-350-70030 Requesting a permanent variance.** (1) Request for a permanent variance must be in writing. You must include the following items in your variance request:

- Employer name and address;
- What work locations and situations that you want the variance to apply to;
- The requirements from which you want the variance (be specific and include WAC numbers);
- A description of your proposed alternate means of protecting employees from hazards;
- How you have notified your employees you are applying for a variance as required in WAC 296-350-70050; and
- How you have notified your employees that they may request a hearing. All applications for variances must contain the following notice on the first page, written large enough and clearly enough to be read easily:

"Attention Employees: Your employer is applying to the Department of Labor and Industries for a variance from safety and health standards. You have a right to ask the Department to have a hearing on this application, but you must ask for the hearing in writing by (date\*\*), or the Department may act on this application without a hearing."

\*\* This date must be at least twenty-one calendar days but not more than one month after submitting your variance request.

(2) Department forms for requesting variances are available from any labor and industries office in the state.

### NEW SECTION

**WAC 296-350-70035 Requesting a temporary variance.** When requesting a temporary variance, you must include the following items:

- All items listed in WAC 296-350-70030, Requesting a permanent variance.



- Why you cannot comply with the requirements, including documentation that supports your belief.
- What steps you will take to protect your employees until you can comply:
- What you are doing to come into compliance; and
- When you will be able to come into compliance.

**NEW SECTION**

**WAC 296-350-70040 Renewing temporary variances.** You must apply for a renewal at least ninety days before the expiration date of the order. To apply for renewal, write to us, explaining why you need more time to come into compliance.

**NEW SECTION**

**WAC 296-350-70045 Submitting variance requests.** Submit permanent variance, temporary variance, or interim order requests using one of the following:

- Mail to:

Assistant Director, WISHA Services Division  
P.O. Box 44625  
Olympia, Washington 98504-4625

- FAX to: (360) 902-5459
- Bring to any labor and industries office in the state.

**NEW SECTION**

**WAC 296-350-70050 Notifying employees about variance requests.** You must notify your employees before requesting a permanent variance, temporary variance, or interim order by:

- Posting a copy of the application on your safety bulletin board;
- Mailing a copy to any authorized representatives your employees have; and
- Using other appropriate means for employees who cannot be expected to receive notice by either of the above methods.

**NEW SECTION**

**WAC 296-350-70055 Department review and decision.** (1) Review. We will review your request to determine whether to grant a variance to WISHA safety and health rules.

- If we need more information, we may contact you or others who may have relevant information.
- If we need to visit your workplace, we will contact you to make arrangements.
- If you do not provide us with the information we need or do not let us visit your workplace, we will deny your request.

(2) Decision. After reviewing your request, we will issue a written order either granting or denying it.

- We will not make a decision before the date for requesting a hearing that is listed on the variance request.

• If you have appealed a citation and notice that relates to the subject of the variance request, we may choose not to make a decision until after your appeal is resolved.

• If granted, the order will include where it applies, what rules it covers, what you must do instead of following the existing rules, an effective date, and any expiration dates, if applicable. The effective date will be on or after the day we issue the order granting the variance.

• If denied, the order will include a brief statement with reason(s) supporting our decision.

**NEW SECTION**

**WAC 296-350-70060 Your responsibilities once we make a decision.** When you receive a written decision regarding a variance request or interim order, you must:

- Notify affected employees using the same means used for the variance application (see WAC 296-350-70050); and
- Abide by the requirements specified in any variance. We can issue citations for violations of any variance.

**NEW SECTION**

**WAC 296-350-70065 Changing a variance.** (1) Permanent variances. We cannot change the terms of a permanent variance for the first six months it is in effect. Any time after six months, we will consider changing the terms of a variance when:

- You or your employees request changes; or
- We decide that changes may be warranted.

(2) Temporary variances. We will only consider changing a temporary variance as part of the renewal process.

(3) Interim orders. We will not change an interim order.

(4) Hearings. You, your employees, or employee representatives may request a hearing on variance changes as with variance applications (see WAC 296-350-70070).

**NEW SECTION**

**WAC 296-350-70070 Variance hearings.** (1) Requesting a hearing. You, any affected employee, or an employee representative may request a hearing on a variance request, temporary variance request, or changes to existing variances. All requests must be received in writing, signed by the applicant(s), and must be received by the assistant director within twenty-one calendar days of the date of the application for the variance.

(2) Department notice. We will issue a notice of the hearing ten days after receiving your request advising all interested parties that they will have the opportunity to participate. We will schedule the hearing so that you will receive notice at least twenty calendar days in advance of the hearing date.

(3) Notifying employees. Upon receiving notice of the hearing, you must immediately post copies of the notice, give copies to affected employees and employee representatives, and use any other appropriate means (see WAC 296-350-70050).

(4) Description of hearing. The hearings on variances are "brief adjudicative proceedings" under the Administrative

Procedure Act, RCW 34.05.482 through 34.05.494. At the hearing, our representative will explain our view of your request for a variance or any proposed change to a variance. You, your employees, or employee representatives will then have an opportunity to explain your views. Information gathered at the hearing will be used in making a decision about whether to grant or deny the request.

(5) We may tape or record a variance hearing. You may request copies at cost.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 296-350-020 Reassumption of jurisdiction—Purpose.
- WAC 296-350-030 Notice of appeal—Filing and service.
- WAC 296-350-040 Notice of appeal—Contents.
- WAC 296-350-050 Reassumption of jurisdiction—Time—Notice of reassumption of jurisdiction and informal conference.
- WAC 296-350-060 Notices of reassumption of jurisdiction and informal conferences—Service—Posting record.
- WAC 296-350-070 Reassumption of jurisdiction—Informal conferences—Procedure—Evidence.
- WAC 296-350-080 Reassumption of jurisdiction—Final determination—Mailing.
- WAC 296-350-090 Reassumption of jurisdiction—Statement of redetermination—Appeal.
- WAC 296-350-095 Settlement agreements.
- WAC 296-350-200 Variances—Foreword.
- WAC 296-350-210 Types of orders granting a variance.
- WAC 296-350-230 Effect of variances.
- WAC 296-350-240 Variance applications—Form of documents—Subscription.
- WAC 296-350-250 Order granting a temporary variance—Application.
- WAC 296-350-255 Order granting a permanent variance—Application.
- WAC 296-350-260 Interim order—Application—Notice of grant.

- WAC 296-350-270 Notice of denial of application for variance.
- WAC 296-350-280 Hearings on applications for variances—Temporary and permanent.
- WAC 296-350-400 Posting of notices—Posting of citation and notice—Availability of act and applicable standards.
- WAC 296-350-450 Complaints by employees or their representatives.
- WAC 296-350-460 Complaints—Inspection not warranted—Informal review.
- WAC 296-350-470 Citation not issued following complaint.

**WSR 00-05-060**

**WITHDRAWAL OF PROPOSED RULES  
PERSONNEL RESOURCES BOARD**

(By the Code Reviser's Office)  
[Filed February 15, 2000, 11:20 a.m.]

WAC 251-01-345, 251-20-020 and 251-20-030, proposed by the Personnel Resources Board in WSR 99-16-101 appearing in issue 99-16 of the State Register, which was distributed on August 18, 1999, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff  
Washington State Register

**WSR 00-05-061**

**PROPOSED RULES  
SUPERINTENDENT OF  
PUBLIC INSTRUCTION**

[Filed February 15, 2000, 12:50 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-11-064.

Title of Rule: Chapter 392-139 WAC, Levy authority and local effort assistance.

Purpose: To revise local effort assistance allocations to implement chapter 317, Laws of 1999, which increases local effort assistance to 12% for all districts, and, to update levy authority calculations and revenues in the levy base.

Statutory Authority for Adoption: RCW 28A.150.290 and 84.52.0531(9).

Statute Being Implemented: Chapter 317, Laws of 1999.

Summary: Beginning in 2000, local effort assistance eligibility is based on a 12% levy for all districts. Revenues in the levy base are updated, and beginning in 2003, budgeted

PROPOSED

revenues are adjusted to reflect budgeted-vs-actual in the prior year.

**Reasons Supporting Proposal:** LEA changes are necessary to implement chapter 317, Laws of 1999. Changes to the levy base reflect new revenue accounts and analysis of federal revenues.

**Name of Agency Personnel Responsible for Drafting:** Ben Gravely, Office of Superintendent of Public Instruction, (360) 753-2298; **Implementation:** Allen Jones, Office of Superintendent of Public Instruction, (360) 753-6708; and **Enforcement:** Michael Bigelow, Office of Superintendent of Public Instruction, (360) 753-1718.

**Name of Proponent:** Office of Superintendent of Public Instruction, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** Prior to calendar year 2000, only school districts with levy rates in the top quartile could qualify for 12% local effort assistance. With the passage of chapter 317, Laws of 1999, all school districts eligible for local effort assistance can qualify for 12% equalization.

Revenue accounts included in the levy base are updated to reflect changes in the school district accounting manual for 1998, 1999, and 2000. One obsolete revenue account is deleted and three new revenue accounts are added to the levy base. Revenue account 6300 Federal Grants Through Other Agencies—Unassigned, is added to the levy base based on analysis showing that a majority of the revenues in this account qualify as a federal allocation for elementary and secondary school programs.

Beginning in the 2003 levy authority calculation, budgeted federal revenues in the levy base are adjusted by the difference between budgeted and actual revenues in the prior year's calculations. This will mean that districts that under-budgeted will get additional levy authority and may get additional local effort assistance eligibility in the ensuing year. Conversely, districts that over-budgeted will get reduced levy authority and local effort assistance eligibility in the ensuing year.

**Proposal Changes the Following Existing Rules:** See above.

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

RCW 34.05.328 does not apply to this rule adoption. Not relevant.

**Hearing Location:** Wanamaker Conference Room, 2nd Floor, Old Capitol Building, P.O. Box 47200, Olympia, WA 98504-7200, on March 21, 2000, at 9:00 a.m.

**Assistance for Persons with Disabilities:** Contact Sheila Emery by March 7, 2000, TDD (360) 664-3631, or (360) 753-6733.

**Submit Written Comments to:** Legal Services, Office of Superintendent of Public Instruction, P.O. Box 47200, 600 South Washington Street, Olympia, WA 98504-7200, fax (360) 753-4201, by March 20, 2000.

Date of Intended Adoption: March 22, 2000.

February 15, 2000

Dr. Terry Bergeson

Superintendent of

Public Instruction

**AMENDATORY SECTION** (Amending Order 18, filed 7/19/90, effective 8/19/90)

**WAC 392-139-001 Authority.** The authorities for this chapter are RCW 84.52.0531(~~((40))~~) (9) and 28A.150.290.

(1) RCW 84.52.0531(~~((40))~~) (9) authorizes the superintendent of public instruction to promulgate rules and regulations regarding the limitation of local school district excess levies otherwise known as the "Special levy lid law."

(2) RCW 28A.150.290 authorizes the superintendent of public instruction to promulgate such rules and regulations as are necessary for administration of state general fund support for the common schools pursuant to chapter 28A.150 RCW. Rules regarding allocation of state general fund moneys for the purpose of partially equalizing excess levy tax rates, otherwise known as "local effort assistance" are adopted pursuant to this general authority.

**AMENDATORY SECTION** (Amending Order 18, filed 7/19/90, effective 8/19/90)

**WAC 392-139-005 Purposes.** The purposes of this chapter are to define the annual procedures that the superintendent of public instruction shall use to determine for each school district:

(1) The maximum dollar amount which may be levied on its behalf for general fund maintenance and operation support pursuant to RCW 84.52.053 and 84.52.0531; and

(2) The local effort assistance to be allocated to it pursuant to chapter 28A.500 RCW (~~((28A.500.040))~~).

**AMENDATORY SECTION** (Amending Order 98-06, filed 4/1/98, effective 5/2/98)

**WAC 392-139-007 Organization of this chapter.** This chapter contains rules for excess levy authority and state matching money for excess levies also known as local effort assistance. The general organization of the chapter is as follows:

Sections 001-099 General provisions and definitions.

Sections 100-299 Definitions for excess levy authority.

Sections 300-399 Determination of excess levy authority.

Sections 600-649 Definitions for local effort assistance.

Sections 660-679 Determination of local effort assistance (~~((for 1998 and thereafter))~~).

Sections 900-999 Notification, petitions and requests for review.

PROPOSED

NEW SECTION

**WAC 392-139-008 Effective date.** This chapter applies to levy authority and local effort assistance calculations for the 2000 calendar year and thereafter. Levy authority and local effort assistance calculations for 1998 and 1999 calendar years are governed by rules in effect during these years.

**AMENDATORY SECTION** (Amending Order 98-06, filed 4/1/98, effective 5/2/98)

**WAC 392-139-310 Determination of excess levy base.** The superintendent of public instruction shall calculate each school district's excess levy base as provided in this section. Levy base adjustments pursuant to WAC 392-139-901 shall be included in revenues shown in this section.

(1) Sum the following state and federal allocations for the prior school year:

(a) The basic education allocation as defined in WAC 392-139-115 and as reported on the August Report 1191;

(b) The state and federal categorical allocations for the following:

(i) Pupil transportation. Allocations for pupil transportation include allocations for the following accounts:

4199 Transportation - operations; and  
4499 Transportation - depreciation.

(ii) Special education. Allocations for special education include allocations for the following accounts:

4121 Special education; and  
6124 Special education supplemental.

(iii) Education of highly capable students. Allocations for education of highly capable students include allocations identified by account 4174 Highly capable.

(iv) Compensatory education. Allocations for compensatory education include allocations identified by the following accounts:

4155 Learning assistance;  
4165 Transitional bilingual;  
6151 Remediation;  
6153 Migrant;  
6164 Bilingual Title VII Part A;  
6167 Indian education - JOM;  
6264 Bilingual (direct); and  
6268 Indian education - ED.

(v) Food services. Allocations for food services include allocations identified by the following accounts:

4198 School food services (state);  
6198 School food services (federal); and  
6998 USDA commodities.

(vi) State-wide block grant programs. Allocations for state-wide block grant programs include allocations identified by the following accounts:

4175 Local education program enhancement (including student learning improvement allocations); and  
6176 Targeted assistance.

(c) General federal programs. Allocations for general federal programs identified by the following accounts:

5200 General purpose direct federal grants - unassigned;  
6100 Special purpose - OSPI - unassigned;  
6138 Secondary vocational education;

6146 Skills center;

6177 Eisenhower professional development; and

6200 Direct special purpose grants ~~((and 6246 Skills center - direct federal grant))~~.

(2) Increase the result obtained in subsection (1) of this section by the percentage increase per full-time equivalent student in the state basic education appropriation between the prior school year and the current school year as stated in the state Operating Appropriations Act divided by 0.55.

(3) Revenue accounts referenced in this section are defined in the accounting manual for public school districts in the state of Washington, revised ~~((1997)) 1998, except for the revenue accounts referenced in subsection (5) of this section, which are defined in the accounting manual, revised 2000.~~

(4) The dollar amount of revenues for state and federal categorical allocations identified in this section shall come from the following sources:

(a) The following state and federal categorical allocations are taken from the Report 1197 Column A (Annual Allotment Due):

4121 Special education;  
4155 Learning assistance;  
4165 Transitional bilingual;  
4174 Highly capable;  
4175 Local education program enhancement;  
4198 School food services (state);  
4199 Transportation - operations;  
4499 Transportation - depreciation;  
6124 Special education - supplemental;  
6138 Secondary vocational education;  
6146 Skills center;  
6151 Remediation;  
6153 Migrant;  
6176 Targeted assistance;  
6177 Eisenhower professional development; and  
6198 School food services (federal).

(b) The following state and federal allocations are taken from the F-195:

5200 General purpose direct federal grants - unassigned;  
6100 Special purpose - OSPI - unassigned;  
6164 Bilingual - Title VII Part A;  
6167 Indian education - JOM;  
6200 Direct special purpose grants;  
~~((6246 Skills center - direct federal grant;))~~  
6264 Bilingual (direct);  
6268 Indian education - ED; and  
6998 USDA commodities.

(5) Effective for levy authority and local effort assistance calculations for 2001 and thereafter, the following federal allocations are included in the levy base in subsections (1)(c) and (4)(b) of this section:

6121 Special education - Medicaid reimbursements;  
6267 Indian education - JOM;  
6367 Indian education - JOM; and  
6300 Federal grants through other agencies - unassigned.

(6) Effective for levy authority and local effort assistance calculations for 2003 and thereafter, allocations in subsections (4)(b) and (5) of this section shall be adjusted by the dif-

ference between actual and budgeted allocations for the school year before the prior school year calculated as follows:

(a) Sum actual revenues for these accounts from Report F-196; and

(b) Subtract final budgeted revenues for these accounts from Report F-195.

(7) State moneys generated by a school district's students and redirected by the superintendent of public instruction to an educational service district at the request of the school district shall be included in the district's levy base.

~~((6))~~ (8) State basic education moneys generated by a school district's students and allocated directly to a technical college shall be included in the district's levy base.

AMENDATORY SECTION (Amending Order 98-06, filed 4/1/98, effective 5/2/98)

**WAC 392-139-320 Determination of maximum excess levy percentage.** ~~((1) For 1998, each school district's maximum excess levy percentage equals the district's 1993 excess levy percentage plus two percent (e.g., 21.5% plus 2% equals 23.5%).~~

~~(2) For 1999 and thereafter,)~~ The superintendent of public instruction shall calculate each school district's maximum excess levy percentage as the greater of twenty-four percent or the percentage calculated as follows:

~~((a))~~ (1) Multiply the district's excess levy base determined pursuant to WAC 392-139-310 by ~~((~~

~~(i) For 1999, the school district's 1993 maximum excess levy percentage plus four percent (e.g., 21.5% plus 4% equals 25.5%);~~

~~(ii) For 2000 and thereafter,)~~ the school district's maximum excess levy percentage for the prior calendar year;

~~((b))~~ (2) Subtract from the result ~~((obtained in (a)) of subsection (1) of this ((subsection)) section~~ the school district's levy reduction funds for the year of the levy; and

~~((c))~~ (3) Divide the result ~~((obtained in (b)) of subsection (2) of this ((subsection)) section~~ by the school district's excess levy base.

AMENDATORY SECTION (Amending Order 93-20, filed 10/20/93, effective 11/20/93)

**WAC 392-139-610 Definition—District ~~((ten))~~ twelve percent levy rate.** As used in this chapter, "district ~~((ten))~~ twelve percent levy rate" means the district ~~((ten))~~ twelve percent levy amount divided by the district adjusted assessed valuation for taxes collected in the prior calendar year.

AMENDATORY SECTION (Amending Order 93-20, filed 10/20/93, effective 11/20/93)

**WAC 392-139-615 Definition—State-wide average ~~((ten))~~ twelve percent levy rate.** As used in this chapter, "state-wide average ~~((ten))~~ twelve percent levy rate" means ~~((ten))~~ twelve percent of the total excess levy bases for the next calendar year determined pursuant to WAC 392-139-310 for all school districts divided by the total adjusted assessed valuation for all school districts for taxes collected in the prior calendar year.

AMENDATORY SECTION (Amending Order 98-06, filed 4/1/98, effective 5/2/98)

**WAC 392-139-620 Definition—Eligible school district~~((—1998 and thereafter))~~.** As used in this chapter, "eligible school district" ~~((for 1998 and thereafter))~~ means a school district whose ~~((ten))~~ twelve percent levy rate exceeds the state-wide average ~~((ten))~~ twelve percent levy rate.

AMENDATORY SECTION (Amending Order 98-06, filed 4/1/98, effective 5/2/98)

**WAC 392-139-625 Definition—State matching ratio~~((—1998 and thereafter))~~.** As used in this chapter, "state matching ratio" ~~((for 1998 and thereafter,))~~ means the ratio calculated for each school district as follows:

(1) Subtract the state-wide average ~~((ten))~~ twelve percent levy rate from the district ~~((ten))~~ twelve percent levy rate; and

(2) Divide the result by the state-wide average ~~((ten))~~ twelve percent levy rate.

AMENDATORY SECTION (Amending Order 98-06, filed 4/1/98, effective 5/2/98)

**WAC 392-139-660 Determination of maximum local effort assistance~~((—1998))~~.** The superintendent of public instruction shall calculate maximum local effort assistance for each eligible school district ~~((for calendar years 1998))~~ as follows:

(1) Subtract the state-wide average ~~((ten))~~ twelve percent levy rate from the district ~~((ten))~~ twelve percent levy rate;

(2) Divide the result obtained in subsection (1) of this section by the district ~~((ten))~~ twelve percent levy rate; and

(3) Multiply the result obtained in subsection (2) of this section by the district ~~((ten))~~ twelve percent levy amount.

AMENDATORY SECTION (Amending Order 98-06, filed 4/1/98, effective 5/2/98)

**WAC 392-139-670 Local effort assistance allocations~~((—1998 and thereafter))~~.** The superintendent of public instruction shall calculate each eligible school district's local effort assistance entitlement ~~((for 1998 and thereafter))~~ as the lesser of the following amounts:

(1) The school district's certified excess levy for the calendar year as reported to the superintendent of public instruction pursuant to WAC 392-139-665 times the school district's state matching ratio for the calendar year calculated pursuant to WAC 392-139-625; or

(2) The school district's maximum local effort assistance ~~((for 1998))~~ calculated pursuant to WAC 392-139-660 ~~((, and for 1999 and thereafter calculated pursuant to WAC 392-139-664)).~~

AMENDATORY SECTION (Amending Order 98-06, filed 4/1/98, effective 5/2/98)

**WAC 392-139-676 Monthly payments of local effort assistance~~((—1993, 1996 and thereafter))~~.** ~~((For 1998 and thereafter,))~~ The superintendent of public instruction shall

distribute local effort assistance moneys pursuant to the schedule provided in RCW ((28A.500.010(4))) 28A.500.040.

### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-139-605	Definition—District ten percent levy amount.
WAC 392-139-622	Definition—Districts eligible for ten percent equalization—1999 and thereafter.
WAC 392-139-623	Definition—Districts eligible for twelve percent equalization—1999 and thereafter.
WAC 392-139-661	Determination of maximum local effort assistance—1999 and thereafter.

### WSR 00-05-079

#### PROPOSED RULES

### STATE BOARD OF EDUCATION

[Filed February 15, 2000, 3:51 p.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 00-01-173.

Title of Rule: WAC 180-78A-209 Professional education advisory boards—Membership.

Purpose: The proposed amendment would include representatives from the vocational community on professional education advisory boards for teacher preparation programs at colleges and universities where vocational programs are offered.

Statutory Authority for Adoption: RCW 28A.305.130 (1) and (2).

Summary: See above.

Reasons Supporting Proposal: The vocational community will then be represented at institutions that have vocational programs.

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

Name of Proponent: State Board of Education, governmental.

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

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

Proposal Changes the Following Existing Rules: See above.

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

RCW 34.05.328 does not apply to this rule adoption. Not applicable.

Hearing Location: The Long House, The Evergreen State College, 2700 Evergreen Parkway N.W., Olympia, WA 98505, on March 22, 2000, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Carolyn Berger by March 8, 2000, TDD (360) 664-3631, or (360) 753-6715.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by March 8, 2000.

Date of Intended Adoption: March 24, 2000.

February 11, 2000

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

**WAC 180-78A-209 Professional education advisory boards—Membership.** The professional education advisory boards shall at a minimum consist of the following:

#### (1) TEACHER.

(a) One-half or more of the voting members shall be classroom teachers appointed by the president of the Washington Education Association: Provided, That a college or university that has placed more than fifty percent of its graduates of the teacher certification program within the previous three academic years in private schools may appoint up to one-half of the practitioners required by this subsection from nominations from faculties of private schools in which the college or university places student teachers or teachers.

(b) At least one principal appointed by the president of the Association of Washington School Principals.

(c) At least one school administrator appointed by the Washington Association of School Administrators.

(d) At least one college or university representative who may serve in a voting or nonvoting role.

(e) One vocational director or teacher appointed by the Washington Association of Vocational Administrators, at colleges or universities where vocational programs are offered.

#### (2) ADMINISTRATOR.

(a) At least one-fourth of the voting members shall be administrators appointed by the president of the Association of Washington School Principals, and at least one-fourth of the voting members shall be administrators appointed by the president of the Washington Association of School Administrators.

(b) At least one or more classroom teachers appointed by the president of the Washington Education Association.

(c) At least one college or university representative who may serve in a voting or nonvoting role.

#### (3) SCHOOL COUNSELOR.

(a) At least one-half of the voting members shall be school counselors appointed by the president of the Washington School Counselors Association.

(b) At least one teacher appointed by the president of the Washington Education Association.

(c) At least one principal appointed by the Association of Washington School Principals.

(d) At least one administrator appointed by the Washington Association of School Administrators.

(e) At least one college or university representative who may serve in a voting or nonvoting role.

**(4) SCHOOL PSYCHOLOGIST.**

(a) At least one-half of the voting members shall be school psychologists appointed by the president of the Washington State Association of School Psychologists.

(b) At least one teacher appointed by the president of the Washington Education Association.

(c) At least one principal appointed by the Association of Washington School Principals.

(d) At least one administrator appointed by the Washington Association of School Administrators.

(e) At least one college or university representative who may serve in a voting or nonvoting role.

**(5) SCHOOL SOCIAL WORKER.**

(a) At least one-half of the voting members shall be school social workers appointed by the president of the Washington Association of School Social Workers.

(b) At least one teacher appointed by the president of the Washington Education Association.

(c) At least one principal appointed by the Association of Washington School Principals.

(d) At least one administrator appointed by the Washington Association of School Administrators.

(e) At least one college or university representative who may serve in a voting or nonvoting role.

**AMENDATORY SECTION** (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

**WAC 180-78A-209 Professional education advisory boards—Membership.** The professional education advisory boards shall at a minimum consist of the following:

**(1) TEACHER.**

(a) One-half or more of the voting members shall be classroom teachers appointed by the president of the Washington Education Association: Provided, That a college or university that has placed more than fifty percent of its graduates of the teacher certification program within the previous three academic years in private schools may appoint up to one-half of the practitioners required by this subsection from nominations from faculties of private schools in which the college or university places student teachers or teachers.

(b) At least one principal appointed by the president of the Association of Washington School Principals.

(c) At least one school administrator appointed by the Washington Association of School Administrators.

(d) At least one college or university representative who may serve in a voting or nonvoting role.

(e) At colleges or universities where vocational programs are offered, one vocational director or vocational teacher, with expertise in one of the approved vocational programs at the college or university, appointed by the Washington Association of Vocational Administrators in cooperation with the college or university.

**(2) ADMINISTRATOR.**

(a) At least one-fourth of the voting members shall be administrators appointed by the president of the Association of Washington School Principals, and at least one-fourth of the voting members shall be administrators appointed by the president of the Washington Association of School Administrators.

(b) At least one or more classroom teachers appointed by the president of the Washington Education Association.

(c) At least one college or university representative who may serve in a voting or nonvoting role.

**(3) SCHOOL COUNSELOR.**

(a) At least one-half of the voting members shall be school counselors appointed by the president of the Washington School Counselors Association.

(b) At least one teacher appointed by the president of the Washington Education Association.

(c) At least one principal appointed by the Association of Washington School Principals.

(d) At least one administrator appointed by the Washington Association of School Administrators.

(e) At least one college or university representative who may serve in a voting or nonvoting role.

**(4) SCHOOL PSYCHOLOGIST.**

(a) At least one-half of the voting members shall be school psychologists appointed by the president of the Washington State Association of School Psychologists.

(b) At least one teacher appointed by the president of the Washington Education Association.

(c) At least one principal appointed by the Association of Washington School Principals.

(d) At least one administrator appointed by the Washington Association of School Administrators.

(e) At least one college or university representative who may serve in a voting or nonvoting role.

**(5) SCHOOL SOCIAL WORKER.**

(a) At least one-half of the voting members shall be school social workers appointed by the president of the Washington Association of School Social Workers.

(b) At least one teacher appointed by the president of the Washington Education Association.

(c) At least one principal appointed by the Association of Washington School Principals.

(d) At least one administrator appointed by the Washington Association of School Administrators.

(e) At least one college or university representative who may serve in a voting or nonvoting role.

**WSR 00-05-080**

**PROPOSED RULES**

**STATE BOARD OF EDUCATION**

[Filed February 15, 2000, 3:53 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-21-091.

Title of Rule: WAC 180-79A-123 Previous standards.

Purpose: The amendment will bring language into alignment with a recent administrative law judge decision.

PROPOSED

Statutory Authority for Adoption: RCW 28A.410.010.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

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

Name of Proponent: State Board of Education, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose Above.

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

RCW 34.05.328 does not apply to this rule adoption. Not applicable.

Hearing Location: The Long House, The Evergreen State College, 2700 Evergreen Parkway N.W., Olympia, WA 98505, on March 22, 2000, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Carolyn Berger by March 8, 2000, TDD (360) 664-3631, or (360) 753-6715.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by March 8, 2000.

Date of Intended Adoption: March 24, 2000.

February 11, 2000

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

**WAC 180-79A-123 Certificates—Previous standards.** (1) Certificates issued under previous standards which were issued for a specific term shall continue to be effective for that term.

(2) Certificates issued under previous standards which were issued for an indefinite period shall continue to be in effect.

(3) All persons who hold any standard teacher, administrator, or specialized personnel certificate issued under previous standards of the state board of education shall be issued a continuing certificate at such time as it is necessary for them to reissue a standard certificate or on application and payment of the fee as specified in WAC 180-79A-130.

(4) Any person who holds a provisional principal's or provisional superintendent's certificate under previous standards of the state board of education shall be issued upon application, including payment of applicable fees, continuing administrative for the appropriate role and such certificates shall be subject to the continuing education requirements of chapter 180-85 WAC.

(5) Any person holding a provisional certificate as a school nurse under provisions of chapter 180-84 WAC shall be granted a continuing certificate.

(6) All persons who hold a valid initial certificate granted under previous standards of the state board of education shall be authorized to meet requirements for continuing certification as set forth in the relevant previous standards except as noted below in subsection (7) of this section.

(7) Any person with a valid initial teacher's certificate granted under previous standards of the state board of education may renew that certificate once after August 31, 2000. The individual shall meet requirements for and apply for the continuing certificate by the expiration date on the renewed certificate or meet requirements for the residency certificate for further certification.

~~((8) Any person whose certificate, subject to expiration and issued under previous standards, has expired shall apply, except as noted under this section, for a new certificate pursuant to WAC 180-79A-124.))~~

## WSR 00-05-082

### PROPOSED RULES

#### STATE BOARD OF EDUCATION

[Filed February 15, 2000, 3:57 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-01-172.

Title of Rule: WAC 180-78A-100 Existing approved programs.

Purpose: The proposed amendment would require that individuals who are in preparation programs operating under previous standards complete those programs in a timely fashion.

Statutory Authority for Adoption: RCW 28A.305.130 (1) and (2).

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

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

Name of Proponent: State Board of Education, governmental.

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

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

Proposal Changes the Following Existing Rules: See above.

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

RCW 34.05.328 does not apply to this rule adoption. Not applicable.

Hearing Location: The Long House, The Evergreen State College, 2700 Evergreen Parkway N.W., Olympia, WA 98505, on March 22, 2000, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Carolyn Berger by March 8, 2000, TDD (360) 664-3631, or (360) 753-6715.



Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by March 8, 2000.

Date of Intended Adoption: March 24, 2000.

February 11, 2000

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

**WAC 180-78A-100 Existing approved programs.**

Chapter 180-78A WAC rules shall govern all policies related to programs upon adoption by the state board of education, which shall provide assistance to colleges and universities in the revision of their existing programs.

(1) All professional education programs shall be reviewed for approval under the 1997 program approval standards of chapter 180-78A WAC by August 31, 2000. Colleges and universities may permit individuals accepted into preparation programs on or before August 31, 2000, to obtain certification by meeting requirements of programs approved under approval standards described in chapter 180-78 WAC if the individuals complete the program on or before August 31, 2003, and the college or university verifies program completion to the superintendent of public instruction on or before December 31, 2003: Provided, That the state board of education or its designee may waive this deadline on a case-by-case basis.

(2) Institutions shall be given at least one year notification prior to a state board of education review for compliance with these standards: Provided, That if an institution requests a visit with less than a year's notice, the state board of education shall consider that request.

~~((2))~~ (3) The state board of education shall determine the schedule for such approval reviews and whether an on-site visit or other forms of documentation and validation shall be used for the purposes of granting approval under the 1997 program approval standards.

~~((3))~~ (4) Each institution shall submit its program for review when requested by the state board of education to ensure that the program meets the state's program approval standards and to provide assessment data relative to the performance standards to the state board of education for the year prior to the site visit.

~~((4))~~ (5) Institutions seeking National Council for the Accreditation of Teacher Education, Council for Accreditation of Counseling and Related Education Programs, and National Association of School Psychologist accreditation may request from the state board of education approval for concurrent site visits which would utilize the same documentation with the exception of material submitted by the institution to the state for the professional education advisory boards and the accountability standards.

~~((5))~~ (6) In submitting a request for approval under these standards, the approved program shall provide a description of the criteria that the program will use to assess, in multiple ways, over time, its certification candidates' knowledge and skills, including, where appropriate, evidence

related to positive impact on student learning. Based on the documentation submitted and/or an on-site visit, the state board of education shall grant approval or request specific revisions that need to be made in order to obtain state board of education approval.

**WSR 00-05-083**

**PROPOSED RULES**

**STATE BOARD OF EDUCATION**

[Filed February 15, 2000, 4:00 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-01-170.

Title of Rule: Various sections of chapter 180-82 WAC, Endorsements and assignments of certificated personnel, WAC 180-82-204 Endorsement requirements, \*180-82-311 Designated arts: Choral, instrumental, or general music—All levels, supporting, \*180-82-313 Designated arts: Visual arts—All levels, supporting, \*180-82-335 English—Secondary, supporting, \*180-82-340 Health/fitness—All levels, primary, \*180-82-341 Health/fitness—All levels, supporting, 180-82-342 History—All levels, primary, and 180-82-343 History—Secondary, supporting.

\*New sections.

Purpose: The proposed amendments and new sections would add supporting endorsements for teaching certificates in a number of subject areas and clarify the field experience requirement for supporting endorsements.

Statutory Authority for Adoption: RCW 28A.410.010.

Summary: See Purpose above.

Reasons Supporting Proposal: The proposal would help ensure a supply of qualified teachers for additional subject areas.

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

Name of Proponent: State Board of Education, governmental.

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

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

Proposal Changes the Following Existing Rules: See above.

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

RCW 34.05.328 does not apply to this rule adoption. Not applicable.

Hearing Location: The Long House, The Evergreen State College, 21700 Evergreen Parkway N.W., Olympia, WA 98505, on March 22, 2000, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Carolyn Berger by March 8, 2000, TDD (360) 664-3631, or (360) 753-6715.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by March 8, 2000.

PROPOSED

Date of Intended Adoption: March 24, 2000.

February 11, 2000

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 99-04-008, filed 1/21/99, effective 2/21/99)

**WAC 180-82-204 Endorsement requirements.** (1) Candidates for all primary (~~and supporting~~) teaching endorsements shall complete college/university programs approved by the state board of education pursuant to chapter 180-78A WAC, which include methodology (See WAC 180-78A-264(5)) and field experience/internship (See WAC 180-78A-264(7)) (~~for the first endorsement~~).

(2) (~~Colleges and universities shall consider modifying program requirements for individuals adding endorsements, based on the individual's previous course work, student teaching/internship, an assessment of the individual's knowledge and skills in the area of the endorsement being sought and other related endorsement areas, and previous teaching experience. In cases where individuals are employed as teachers,~~) Candidates for all supporting teaching endorsements shall complete college/university programs approved by the state board of education pursuant to chapter 180-78A WAC, which shall include methodology (see WAC 180-78A-264(5)). The requirement for field experience/internship for a supporting endorsement shall be at the discretion of the college/university: Provided, That in cases where programs require a field experience/internship the colleges and universities (~~may~~) should make every attempt to allow the individual to complete field-based requirements for the endorsement within the confines of the individual's existing schedule.

(3) The state board of education shall approve teacher preparation programs for each endorsement program at Washington colleges and universities, pursuant to chapter 180-78A WAC.

(4) Candidates from out-of-state shall be required to present verification that they completed a state-approved program (equivalent to a major) in a Washington endorsement area.

(5) Course work used to meet endorsement requirements must be completed through a regionally accredited college/university.

(6) Only course work in which an individual received a grade of C (2.0) or higher or a grade of pass on a pass-fail system of grading shall be counted toward the course work required for the approved endorsement program.

(7) Nothing within this chapter precludes a college or university from adopting additional requirements as conditions for recommendation, by such college or university, to the superintendent of public instruction for a particular subject area endorsement.

#### NEW SECTION

**WAC 180-82-311 Designated arts: Choral, instrumental, or general music—All levels, supporting.** In order

to receive a supporting endorsement in designated arts: Choral, instrumental, or general music, the candidate shall have completed a state-approved preparation program in designated arts: Choral, instrumental, or general music which shall include the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) from the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills from the following areas:

- (1) Performance in-depth study of instrument or voice.
- (2) Aural skills and analysis.
- (3) Composition and improvisation.
- (4) Performance repertory (e.g., instrumental, choral, solo, world music).
- (5) Technology.
- (6) Conducting.
- (7) Arranging.
- (8) Theory analysis of music literature.
- (9) Equipment and facilities safety.
- (10) Social, cultural, and historical contexts and connections.

#### NEW SECTION

**WAC 180-82-313 Designated arts: Visual arts—All levels, supporting.** In order to receive a supporting endorsement in designated arts: Visual arts, the candidate shall have completed a state-approved preparation program in designated arts: Visual arts which shall include the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) from the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills from the following areas:

- (1) Skills and techniques in multiple media (e.g., painting, sculpture, drawing, computer, photography).
- (2) Composition and production using design principles.
- (3) Analysis and interpretation of art.
- (4) Social, cultural and historical contexts and connections.
- (5) Material, equipment, and facilities safety.

#### NEW SECTION

**WAC 180-82-335 English—Secondary, supporting.** In order to receive a supporting endorsement in English the candidate shall have completed a state-approved preparation program in English which shall include the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) from the subject areas below. Through the completion of this course work and/or alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills from the following areas:

- (1) The reading process (e.g., skills and strategies).
- (2) The writing process (e.g., expository, technical, narrative).
- (3) Communication (e.g., speaking, listening, and analyzing).
- (4) Language skills (conventions) and structure (social/historical).
- (5) Literature (e.g., American, British, world, and multicultural).

#### NEW SECTION

**WAC 180-82-340 Health/fitness—All levels, primary.** In order to receive a primary endorsement in health/fitness the candidate shall have completed a state approved preparation program in health/fitness which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) Foundations of health and fitness
- (2) Safe living, including first aid and CPR.
- (3) Scientific foundations for health and fitness (i.e., anatomy exercise physiology, kinesiology/biomechanics, psychomotor maturation and development, and motor learning).
- (4) Movement, activities, and application with attention to special needs populations.
- (5) Coordinated health education (i.e., alcohol and other drugs, diseases, injury prevention, human relationships, nutrition, HIV prevention, and abuse prevention).

#### NEW SECTION

**WAC 180-82-341 Health/fitness—All levels, supporting.** In order to receive a supporting endorsement in health/fitness the candidate shall have completed a state-approved preparation program in health/fitness which shall include the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as twenty-four quarter credit hours (sixteen semester credit hours) from the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university the candidate shall have demonstrated knowledge and skills from the following areas:

- (1) Foundations of health and fitness.
- (2) Safe living, including first aid and CPR.
- (3) Scientific foundations for health and fitness (i.e., anatomy exercise physiology, kinesiology/biomechanics, psychomotor maturation and development, and motor learning).
- (4) Movement, activities, and application with attention to special needs populations.

- (5) Coordinated health education (i.e., alcohol and other drugs, diseases, injury prevention, human relationships, nutrition, HIV prevention, and abuse prevention).

**AMENDATORY SECTION** (Amending WSR 99-04-008, filed 1/21/99, effective 2/21/99)

**WAC 180-82-342 ((Health/fitness)) History—All levels, primary.** In order to receive a primary endorsement in ((health/fitness)) history the candidate shall have completed a state-approved preparation program in ((health/fitness)) history which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as forty-five quarter credit hours (thirty semester credit hours) in the subject areas below. Through the completion of this course work and/or an alternative performance-based assessment acceptable to the college/university the candidate shall have demonstrated knowledge and skills in the following areas:

- (1) ((Foundations of health and fitness
  - (2) Safe living, including first aid and CPR.
  - (3) ~~Scientific foundations for health and fitness (i.e., anatomy exercise physiology, kinesiology/biomechanics, psychomotor maturation and development, and motor learning).~~
  - (4) ~~Movement, activities, and application with attention to special needs populations.~~
  - (5) ~~Coordinated health education (i.e., alcohol and other drugs, diseases, injury prevention, human relationships, nutrition, HIV prevention, and abuse prevention).)~~
- Pacific Northwest history.**
- (2) United States history, including chronological, thematic, multicultural, ethnic, and women's history.
  - (3) World, regional, or country history.
  - (4) Civics/political science/United States government.
  - (5) Geography.
  - (6) Economics.

**AMENDATORY SECTION** (Amending WSR 99-04-008, filed 1/21/99, effective 2/21/99)

**WAC 180-82-343 History—Secondary, ((primary)) supporting.** In order to receive a ((primary)) supporting endorsement in history the candidate shall have completed a state-approved preparation program in history which shall be comprised of the appropriate pedagogy courses and field experiences/internship, pursuant to chapter 180-78A WAC, as well as ((forty-five)) twenty-four quarter credit hours ((thirty)) sixteen semester credit hours ((~~it~~)) from the subject areas below. Through the completion of this course work and/or alternative performance-based assessment acceptable to the college/university, the candidate shall have demonstrated knowledge and skills ((~~it~~)) from the following areas:

- (1) Pacific Northwest history.
- (2) United States history, including chronological, thematic, multicultural, ethnic, and women's history.
- (3) World, regional, or country history.
- (4) Civics/political science/United States government.
- (5) Geography.
- (6) Economics.

**WSR 00-05-084**  
**PROPOSED RULES**  
**HIGHER EDUCATION**  
**COORDINATING BOARD**

[Filed February 15, 2000, 4:42 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 00-01-179.

Title of Rule: Masters in education reimbursement program.

Purpose: Implements the program as authorized by the 1999-2001 biennial budget.

Statutory Authority for Adoption: Chapter 28B.80 RCW.

Statute Being Implemented: Section 611(3), chapter 309, Laws of 1999.

Summary: Establishes the conditions under which the board may accept applications from, and make disbursements to, teachers who complete a masters in education degree and return to teaching service.

Reasons Supporting Proposal: These rules are necessary to implement the program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Klacik, 917 Lakeridge Way, Olympia, 98504-3430, (360) 753-7851.

Name of Proponent: Higher Education Coordinating Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: (1) These rules define the eligible participant as one who: (a) Earns a Masters in Education, or in Teaching, degree after June 30, 1999, from a Washington institution, and (b) returns to teaching service in a public school.

(2) The rules also provide additional definition to the terms "public school, eligible applicant, institution of higher education, teaching credential" and others.

(3) Sets a priority for Master of Science credentialed teachers as required by the enabling legislation.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This is a reimbursement program for public school teachers. It does not impact small businesses.

RCW 34.05.328 does not apply to this rule adoption. The Higher Education Coordinating Board is not one of the agencies named in statute.

Hearing Location: Higher Education Coordinating Board, 917 Lakeridge Way, 3rd Floor, Olympia, WA 98504-3430, on March 21, 2000, at 8:30 a.m. - 12 p.m.

Submit Written Comments to: Fax (360) 704-6251, by March 21, 2000.

Date of Intended Adoption: March 30, 2000.

February 15, 2000

John Klacik

Associate Director

**Chapter 250-81 WAC**

**MASTERS IN EDUCATION REIMBURSEMENT PROGRAM**

NEW SECTION

**WAC 250-81-010 Purpose.** This program is intended to partially reimburse teachers or teacher candidates for educational expenses they incur when they receive a master's degree in education or a master's degree in teaching and return to teaching in a public school classroom.

NEW SECTION

**WAC 250-81-020 Definitions.** (1) "Board" means the higher education coordinating board.

(2) "OSPI" means the office of the superintendent of public instruction.

(3) "Public school" means an elementary school, a middle school, junior high school, or high school within the public school system referred to in Article IX of the state Constitution.

(4) "Eligible applicant" means a person who:

(a) Did not possess a master's degree in any subject prior to July 1, 1999;

(b) Receives either a master's in education or a master's in teaching degree from an institution of higher education in Washington after June 30, 1999; and

(c) Is teaching in one of the state's public elementary, middle, or secondary schools or has a contract to teach in one of those schools for the next academic year.

(5) "Master's degree" means a master's in education or a master's in teaching degree.

(6) "Institution of higher education" means an accredited public or private college or university offering graduate degree coursework in the state of Washington.

(7) "Accredited" means an institution certified by the Northwest Association of Schools and Colleges or by a similar regional accrediting body.

(8) "Teaching credential" means a teaching endorsement conferred by the office of the superintendent of public instruction or documentation that shows completion of a major or minor in one or more specific priority areas.

(9) "Mathematics or science" means an endorsement or major or minor in mathematics or science, biology, chemistry, earth science, or physics, as determined by the OSPI.

(10) "Priority areas" means those curriculum or teaching specialties defined as priorities in the selection of recipients for reimbursement.

(11) "Documentation" means evidence supporting the applicant's:

(a) Current teaching service;

(b) Possession of a teaching credential in priority area; and

(c) Receipt of an appropriate master's degree from an accredited institution of higher education.

(12) "Educational expenses" means the current representative average annual tuition and fees for resident graduate

students attending the state's research institutions, as determined by the board.

#### NEW SECTION

**WAC 250-81-030 Application procedure.** (1) The completed application will include all necessary documentation.

(2) The board will treat all applications in a confidential manner.

(3) Applications will be made available through several means including:

- (a) Mailings to institutions of higher education;
- (b) Mailings to related teacher and school organizations;
- (c) Posting on the HECB website at <http://www.hecb.wa.gov>;

(d) Direct mailing to individuals.

(4) The board will annually set a deadline for the receipt of applications and documentation for reimbursement from that year's funds.

#### NEW SECTION

**WAC 250-81-040 Recipient selection and ranking in priority order.** (1) First priority will be given to applicants who possess a mathematics or science teaching credential.

(2) The board may set other priorities if needed to properly expend program funding.

(3) Applicants who do not receive the reimbursement may reapply in the second year.

#### NEW SECTION

**WAC 250-81-050 Reimbursement amount.** (1) Within available funds and until these funds are exhausted, the board may repay all or a portion of the educational expenses incurred by a teacher, or teacher candidate, for one year of master's level studies at an accredited Washington institution of higher education.

(2) The annual maximum reimbursement shall be set by the board. Depending upon the number of eligible applicants, the reimbursement may be prorated among eligible applicants at a rate less than the maximum.

(3) Funds are to be prorated among all eligible first priority applicants, not to exceed the annual maximum as set by the board.

(4) If funds remain after awards have been made to first priority applicants, the board may establish a second priority group to fully expend program funding. The award to this population of applicants shall not exceed the amount received by the first priority applicants.

(5) If funds continue to remain after reimbursing the second priority applicants, then the remaining funds shall be prorated among all remaining eligible applicants, not to exceed the award given to the first priority group.

(6) The reimbursement for any individual eligible applicant shall be reduced by the sum of all other tuition reimbursements received by the applicant from other public sources. Other public sources include the applicant's school

and school district, but do not include student loans or student aid awarded through a college or university.

#### NEW SECTION

**WAC 250-81-060 Program administration.** (1) The board shall administer the program. The board shall be responsible for:

- (a) Collection of applications and documentation;
- (b) Determination of eligibility;
- (c) Determination of the eligibility of institutions of higher education within Washington;
- (d) Adjudication of all appeals;
- (e) Disbursement of awards; and
- (f) Maintenance of records.

(2) The board shall request from the OSPI:

(a) A list of all public elementary, middle, junior high, and high schools within Washington; and

(b) The list of teaching credentials which qualify as mathematics or science.

WSR 00-05-089

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed February 16, 2000, 8:44 a.m.]

Original Notice.

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

Title of Rule: WAC 16-536-040, increase the grower assessment on dry peas and lentils grown in the state of Washington.

Purpose: To consider a proposal from the board of the Dry Pea and Lentil Commission to increase the assessment on all varieties of dry peas and lentils from 1% of net receipts at first point of sale to 2%.

Statutory Authority for Adoption: RCW 15.65.050.

Statute Being Implemented: Chapter 15.65 RCW.

Summary: The proposal, if adopted, will increase the assessment on all varieties of dry peas and lentils grown in the state from 1% of net receipts at the first point of sale to 2%.

Reasons Supporting Proposal: The assessment increase is necessary to conduct needed research programs in the production of peas and lentils and to maintain markets and expand sales of dry peas and lentils grown in Washington.

Name of Agency Personnel Responsible for Drafting: Walter Swenson, 1111 Washington Street, 2nd Floor, Olympia, WA, (360) 902-1928; Implementation and Enforcement: Tim McGreevy, 5070 Highway 8 West, Moscow, ID, (208) 882-3020.

Name of Proponent: Washington Dry Pea and Lentil Commission, private.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Adoption of the rule is subject to approval by a majority of the affected producers voting in a referendum conducted by the Department of Agriculture.

PROPOSED

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule will increase the assessment on dry peas and lentils grown in the state of Washington from 1% of net receipts at the first point of sale to 2%. The rule is proposed because the dry pea and lentil faces reduced federal funding in the area of research and market development. Without an assessment increase, the commission will not be able to fund necessary research programs and lose its competitive position in the domestic and international markets.

Proposal Changes the Following Existing Rules: The rule, if approved by a majority vote of the growers, would increase the assessments on dry peas and lentils from 1% of net receipts at the first point of sale to 2%.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule will only affect dry pea and lentil growers in Washington and will only become effective with the approval of a majority of growers voting in a referendum. There will be no disproportionate cost to small businesses because all cost as well as economic benefit to the producer will be in proportion to the level of production of each producer. The rule will not increase cost in equipment, supplies, labor or administrative expenses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: Whitman County Services Building, 310 North Main Street, Colfax, WA 99111, on April 4, 2000, at 7:00 p.m.

Assistance for Persons with Disabilities: Contact WSDA Reception by April 3, 2000, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Walter Swenson, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2092, by April 5, 2000.

Date of Intended Adoption: May 25, 2000.

February 16, 2000

William E. Brookreson  
Deputy Director

AMENDATORY SECTION (Amending Order 1895, filed 7/3/86)

**WAC 16-536-040 Assessments and collections. (1) Assessments.**

(a) The assessment on all varieties of dry peas and dry lentils subject to this marketing order shall be ~~((one))~~ two percent of the net receipts at the first point of sale and shall be deducted by the first purchaser from the price paid to the grower. Such assessment shall be remitted to the commission board in accordance with procedures adopted by the commission board: Provided, That such assessment on commercial wrinkled pea seed shall not become effective unless approved by a referendum vote of the affected wrinkled pea seed producers.

(b) Such assessments shall not be payable on any such dry peas and/or lentils used by the producer thereof on his premises for feed, seed and personal consumption.

(2) Collections. Any moneys collected or received by the board pursuant to the provisions of the order during or with respect to any season or year may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of such marketing agreement or order, to all persons from whom such moneys were collected or received, or may be carried over into and used with respect to the next succeeding season, year or period whenever the board finds that the same will tend to effectuate such policies and purposes.

(3) Penalties. Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and the order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the board may bring a civil action against such person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

**WSR 00-05-094**

**PROPOSED RULES**

**SECRETARY OF STATE**

[Filed February 16, 2000, 9:00 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-01-018.

Title of Rule: Logic and accuracy tests.

Purpose: To define when an emergency logic and accuracy test should be conducted.

Other Identifying Information: WAC 434-334-090, 434-334-110, 434-334-127, 434-334-140, 434-334-160, and 434-334-165.

Statutory Authority for Adoption: RCW 29.33.350.

Statute Being Implemented: RCW 29.33.350.

Summary: Amends existing rules by establishing criteria for performing and emergency logic and accuracy test.

Reasons Supporting Proposal: To clarify the existing rules.

Name of Agency Personnel Responsible for Drafting: Pamela Floyd, 1007 South Washington Street, Olympia, (360) 664-3442; Implementation and Enforcement: David Elliott, 1007 South Washington Street, Olympia, (360) 586-8425.

Name of Proponent: 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: This change will specify the circumstances that make an emergency logic and accuracy test applicable.

Proposal does not change existing rules.

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

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: Second Floor, 1007 South Washington Street, Olympia, WA 98504, on March 21, 2000, at 10:15 a.m.

Assistance for Persons with Disabilities: Contact David Elliott by March 20, 2000, TDD (800) 422-8683.

Submit Written Comments to: David Elliott, P.O. Box 40237, Olympia, WA 98504-0237, fax (360) 664-2971, by March 20, 2000.

Date of Intended Adoption: April 18, 2000.

February 16, 2000

Donald F. Whiting

Assistant Secretary of State

**AMENDATORY SECTION** (Amending WSR 99-08-115, filed 4/7/99, effective 5/8/99)

**WAC 434-334-090 Logic and accuracy test certification—State primary and general election.** The county auditor or deputy, and, if present, the office of the secretary of state representative and any political party observers shall certify that the test has been conducted in accordance with RCW 29.33.350. Copies of this certification shall be retained by the secretary of state and the county auditor. All programming materials, test results, and test ballots shall be securely sealed until the day of the primary or election. These items may be sealed and stored separately.

If, for any reason, any changes are made to the ballot counting programming after the official logic and accuracy test, an emergency logic and accuracy test must be conducted pursuant to WAC 434-334-082.

**AMENDATORY SECTION** (Amending WSR 99-08-115, filed 4/7/99, effective 5/8/99)

**WAC 434-334-110 Logic and accuracy test certification—Special election.** The county auditor or deputy and any political party observers, if present, shall certify that the test has been conducted in accordance with RCW 29.33.350. Copies of this certification shall be retained by the county auditor. All programming materials, official test results, and test ballots shall be securely sealed until the day of the primary or election. These items may be sealed and stored separately.

If, for any reason, any changes are made to the ballot counting programming after the official logic and accuracy test, an emergency logic and accuracy test must be conducted pursuant to WAC 434-334-082.

## NEW SECTION

**WAC 434-334-127 Punchcard adjustment standards and tests.** Prior to all official logic and accuracy tests, a test must be conducted by each county employing a punchcard balloting system to confirm the ballot stock to be used in the election meets system specifications for card weight, thickness and length. The test should also confirm that the prepunches and voting response areas are being read properly by the ballot counter.

**AMENDATORY SECTION** (Amending WSR 99-08-115, filed 4/7/99, effective 5/8/99)

**WAC 434-334-140 Definitions.** For optical scan voting systems:

(1) "Voting response area" means the area defined by ballot instructions which the voter places their mark to indicate their vote.

(2) "Scanning area" means the portions of each ballot that the system scans in order to read the vote marks made by voters.

(3) "Ballot marking code" means the coded patterns printed on ballots intended to identify ballot styles to the ballot counting system.

**AMENDATORY SECTION** (Amending WSR 99-08-115, filed 4/7/99, effective 5/8/99)

**WAC 434-334-160 Optical scan read head and ballot scan area alignment tests.** Prior to all official logic and accuracy tests, a test shall be conducted by each county employing an optical scan balloting system to confirm that the voting response areas printed on all ballot faces are aligned properly with the scanning area of the ballot counter. This test should also confirm that all ballot marking codes are being properly interpreted by the ballot counter.

**AMENDATORY SECTION** (Amending WSR 99-08-115, filed 4/7/99, effective 5/8/99)

**WAC 434-334-165 Optical scan ballot marking code program test.** Prior to the official logic and accuracy test each county employing an optical scan balloting system shall thoroughly test all programming and system components. The test must at least verify the office programming by thoroughly testing each individual office, ((test)) testing the ballot style logic to insure that all offices are included on the intended ballot faces, and verify that the program is accumulating all offices. The county auditor or deputy shall certify that these tests have been completed prior to the official logic and accuracy test.

PROPOSED

**WSR 00-05-095**  
**PROPOSED RULES**  
**SECRETARY OF STATE**  
 [Filed February 16, 2000, 9:02 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-01-019.

Title of Rule: Certification of elections.

Purpose: To clarify which multijurisdictional election results are sent to the state for certification.

Other Identifying Information: WAC 434-262-080, 434-262-110, and 434-262-120.

Statutory Authority for Adoption: RCW 29.04.080, 29.04.210, 29.36.150, 29.79.200.

Statute Being Implemented: RCW 29.62.090.

Summary: Amends existing rules by specifying state legislative and judicial multijurisdictional districts results only be sent to the state for certification.

Reasons Supporting Proposal: Ambiguous working needed to be clarified.

Name of Agency Personnel Responsible for Drafting: Pamela Floyd, 1007 South Washington Street, Olympia, (360) 664-3442; Implementation and Enforcement: David Elliott, 1007 South Washington Street, Olympia, (360) 586-8425.

Name of Proponent: 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: This is a minor change in wording to specify which multijurisdictional districts' election results are to be sent to the OSOS for certification purposes.

Proposal does not change existing rules.

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

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: Second Floor, 1007 South Washington Street, Olympia, WA 98504, on March 21, 2000, at 10:15 a.m.

Assistance for Persons with Disabilities: Contact David Elliott by March 20, 2000, TDD (800) 422-8683.

Submit Written Comments to: David Elliott, P.O. Box 40237, Olympia, WA 98504-0237, fax (360) 664-2971, by March 20, 2000.

Date of Intended Adoption: April 18, 2000.

February 16, 2000  
 Donald F. Whiting  
 Assistant Secretary of State

**AMENDATORY SECTION** (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

**WAC 434-262-080 Auditor's abstract of votes—Secretary of state to receive certified copy—Transmittal.** No later than the next business day following the certification of the returns of any primary, special, or general election at which votes were cast for or against state measures or for

candidates for federal and state-wide office or for state legislative and judicial offices whose jurisdiction encompasses more than one county, the county auditor shall send a certified copy of that part of the auditor's abstract of votes covering those issues and offices to the secretary of state. This copy must be no larger than eleven inches by fourteen inches and have a certificate identical to that accompanying the official county canvass report, bearing the county seal and original signatures of the officers required to sign that document attached or affixed thereto. A copy of the written narrative documenting errors and discrepancies discovered and corrective action taken shall accompany the abstract if applicable. Copies of the adding machine tapes used during the verification process need not be sent to the secretary of state.

**AMENDATORY SECTION** (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

**WAC 434-262-110 Certification of primary returns by the secretary of state.** Upon completion of the canvass of each county's certified copy of the auditor's abstract of votes and no later than the third Tuesday following the primary, the secretary of state shall certify to the appropriate county auditors the returns for all candidates for federal and state-wide offices, for those state legislative and judicial offices whose jurisdiction encompasses more than one county, and the ballot titles for all state measures. In the event the secretary of state is unable to certify all or part of a primary election by the third Tuesday following that primary because he or she has not received completed certified copies of the auditor's abstract of votes from one or more counties, he or she shall certify the state ballot measures and those candidates for which completed abstracts have been received. The secretary of state shall also set forth, by letter to the county auditors, those reasons which render him or her unable to certify the entire primary. The certification of the remainder of the primary shall take place when all outstanding certified copies of official abstracts have been received and filed.

**AMENDATORY SECTION** (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

**WAC 434-262-120 Certification of general election returns by the secretary of state.** Upon completion of the canvass of each county's certified copy of the auditor's abstract of votes and no later than the thirtieth day following a general election the secretary of state shall certify to the governor the returns for all candidates for federal and state-wide offices, for those state legislative and judicial offices whose jurisdiction encompasses more than one county, and for all state ballot measures. In the event the secretary of state is unable to certify all or part of a general election by the thirtieth day following that election because he or she has not received completed certified copies of the auditor's abstract of votes from one or more counties, he or she shall certify those candidates for which completed abstracts have been received. The secretary of state shall also set forth, by letter to the governor, those reasons which render him or her unable to certify the entire election. The certification of the remainder



of the election shall take place when all outstanding certified copies of official abstracts have been received.

**WSR 00-05-098**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**

[Filed February 16, 2000, 9:33 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 98-07-079.

**Title of Rule:** Release of vital record information.

**Purpose:** The purpose of this rule proposes requirements individuals must meet to receive certified copies of birth certificates. The rule is consistent with long-standing Center for Health Statistics policy. The proposal also places in WAC the centers policies for releasing confidential and nonidentified vital record data files. This proposal is intended to deter fraudulent acquisition of birth certificates by imposters intent on criminal use of personal identification information.

**Statutory Authority for Adoption:** RCW 70.58.104 and 70.58.082.

**Statute Being Implemented:** RCW 70.58.104 and 70.58.082.

**Summary:** The rule defines terms, outlines procedures for obtaining vital records for research purposes or statistical study and reasons for denial, and outlines procedures for obtaining birth certificates for personal purposes and methods for relief if denied.

**Reasons Supporting Proposal:** This rule will allow the department to clarify existing policies and involve the public in their creation. This is a first step in a process to reduce identity fraud.

**Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Teresa Jennings, Department of Health, Center for Health Statistics, (360) 236-4307.

**Name of Proponent:** Washington State Department of Health, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** The draft rule is intended to (1) clarify procedures for obtaining vital record data for research purposes and (2) deter the fraudulent acquisition of birth certificates by imposters intent on criminal use of personal identifier information.

Current law (chapter 70.58 RCW) requires that all research proposals must be submitted to the department and must be reviewed and approved as to scientific merit and to ensure that confidentiality safeguards are provided in accordance with department policy. Clarifying procedures for researchers assists the public to know more about how vital record data can be obtained for research purposes and what safeguards are in place for its release and the circumstances which a request could be denied.

It accomplishes the second purpose by requiring the applicant to provide certain information to obtain a birth certificate: (a) Child's full name; (b) child's date of birth; (c)

child's place of birth (city or county); (d) father's full name, if it appears on the record and (e) mother's full maiden name. These are the same items that are displayed on the certificate. Therefore, the requester receives no information that they do not already know.

Proposal does not change existing rules. This is a new chapter of administrative code.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

**Small Business Economic Impact Statement**

In 1997, the Washington state legislature passed HB 1930 which required the Department of Health to "adopt rules providing for the release of paper or electronic copies of birth certificate records that include adequate standards for security and confidentiality, assure the proper record is identified, and prevent fraudulent use of records." The purpose of this rule is to adopt in WAC the current requirements of Center for Health Statistics policies stating what is required for an individual to receive a certified copy of a birth certificate. It is intended to deter the fraudulent acquisition of birth certificates by imposters intent on criminal use of personal identification information.

This rule also places in WAC the center's policies for obtaining confidential and nonidentified birth certificate data files. Authorization for this latter portion of the draft rule is in RCW 70.58.104, "the department may authorize by regulation the disclosure of information contained in vital records for research purposes."

This report presents the department's determination that a small business economic impact statement (SBEIS) is not needed for the proposed rule.

**Small Business Economic Impact Statement:** *Is a small business economic impact statement necessary?* This rule does not fall into any of the categories explicitly designated as exempt from an SBEIS by the Regulatory Fairness Act. However, the \$13 cost of a birth certificate (set by legislation) is below the general "more than minor cost" threshold of \$50. On rare occasions, organizations (usually a news related) request multiple birth certificates. Since 1997, the most certified copies of a single birth certificate asked for in a single request has been three. The fee associated with such a request is \$39. This amount is less than the \$78 more than minor cost threshold for news media (from the "Facilitating Regulatory Fairness" by the Business Assistance Center). Since the cost imposed by this proposed regulation is not "more than minor" a small business economic impact statement (SBEIS) is not necessary.

A copy of the statement may be obtained by writing to Carrie Richardson, Administrative Assistant, Department of Health, Center for Health Statistics, P.O. Box 47814, Olympia, WA 98504-7814, phone (360) 236-4307, fax (360) 753-4135.

RCW 34.05.328 applies to this rule adoption. This rule qualifies as a legislatively significant rule under RCW 34.05.328 because an individual may be subject to penalty if he or she uses the information they obtain through a vital statistics request for fraudulent purposes.

PROPOSED

Hearing Location: Department of Health, 1st Floor Conference Room, 1102 Quince Street, Olympia, WA, on March 22, 2000, at 10:30 a.m.

Assistance for Persons with Disabilities: Contact Carrie Richardson, at (360) 236-4308, by March 15, 2000, TDD (800) 833-6388.

Submit Written Comments to: Teresa Jennings, fax (360) 753-4135, by March 22, 2000.

Date of Intended Adoption: March 24, 2000.

February 14, 2000

M. C. Selecky  
Secretary

#### NEW SECTION

**WAC 246-490-010 Definitions.** (1) "Department" means the department of health.

(2) "Human research review board" is a standing institutional review board operating under state law, chapter 42.48 RCW.

(3) "Confidential portion of the birth and fetal death certificates" means pertinent information relative to the birth and manner of delivery as specified in WAC 246-491-029.

(4) "Local registrar and their deputies" are those local officials operating under the direction and control of the state registrar. The health officer within each local health jurisdiction is the local registrar in and for the primary registration district under his or her supervision. His or her designees are deputy registrars.

(5) "Personal identifiers" are names, addresses, social security numbers and any other information that reveals or can likely be associated with the identity of the person or persons to whom the record pertains.

(6) "Research" means a planned and systematic sociological, psychological, epidemiological, biomedical, or other scientific investigation with an objective to contribute to scientific knowledge, the solution of social and health problems, or the evaluation of public benefit, health care delivery or medical or social service programs.

(7) "Scientific merit" describes a research project or statistical study that is based on methods of data collection or analysis that are objective, can be replicated, and are designed to yield reliable and valid results.

(8) "State registrar" is the department of health official charged with the execution of the provisions of chapter 70.58 RCW.

(9) "Statistical study" means any project consisting of or based on assembling, classifying, and/or tabulating numerical data to present significant information about a given subject.

(10) "Vital records" means records of birth, death, fetal death, marriage, dissolution, annulment, and legal separation, maintained under the supervision of the state registrar of vital statistics.

## VITAL RECORDS FOR RESEARCH PURPOSES OR STATISTICAL STUDY

### NEW SECTION

**WAC 246-490-020 Requesting vital records information without personal identifiers.** (1) If you request vital records information without personal identifiers for research purposes or statistical study or if the state registrar determines that your research or statistical study does not require the use of personal identifiers, you will receive the vital records information in a format specified by the department.

(2) You may be required to sign an agreement requiring you to:

(a) Not release the vital records data files or listings to any third party without prior written approval of the state registrar; and

(b) Pay for charges based on actual costs associated with the preparation of the data files or analyses required to fulfill your request.

(3) If you are requesting birth or fetal death certificate confidential information without personal identifiers, you will be required to sign a written agreement, which includes:

(a) Conditions for the use of the birth or fetal death certificate data;

(b) Conditions for safeguarding the confidentiality of the records including limits on reporting results that may reveal personal identities;

(c) Appropriate citations for use in research reports or publications of research findings; and

(d) An estimate of the costs for preparing the analyses or copies of data files maintained by the state registrar.

(4) Your request may be denied if:

(a) The department does not have adequate resources with which to fulfill the request; or

(b) You do not agree to pay for charges associated with the preparation of the data or analyses required to fulfill your request.

### NEW SECTION

**WAC 246-490-030 Requesting a listing or file of vital records with personal identifiers.** (1) If you request access to vital records with personal identifiers for research purposes or statistical study, you shall be required to submit a letter of request to the state registrar stating:

(a) The purpose of the research;

(b) Research study design and analysis plan;

(c) The means for ensuring the confidentiality and security of the records;

(d) The time frame and geographic area of interest;

(e) The variable(s) needed; and

(f) The preferred time frame for receiving the information.

(2) You may be required to sign an agreement requiring you to:

(a) Not release the vital records data files or listings to any third party without prior written approval of the state registrar; and

(b) Pay for charges based on actual costs associated with the preparation of the data files or analyses required to fulfill your request.

(3) If you are requesting birth or fetal death certificate confidential information with personal identifiers for research purposes, you must obtain approval from the standing human research review board as specified in chapter 42.48 RCW. Application information is available through the department.

(4) Your request may be denied if:

(a) The information requested will be used for a commercial purpose;

(b) Your research proposal or statistical study is without scientific merit;

(c) The department does not have adequate resources with which to fulfill the request; or

(d) You do not agree to pay for charges associated with the preparation of the data or analyses required to fulfill your request.

### INDIVIDUAL BIRTH CERTIFICATES FOR PERSONAL PURPOSES

#### NEW SECTION

**WAC 246-490-055 Obtaining a birth certificate.** (1) Certified copies of birth certificates are available through the state registrar or local deputy registrar. You must pay the fee required under RCW 70.58.107 and provide the following information to obtain the birth certificate:

- (a) Child's full name;
- (b) Child's date of birth;
- (c) Child's place of birth (city or county);
- (d) Father's full name, if it appears on the record; and
- (e) Mother's full maiden name.

(2) If there is not sufficient information to find the record, the department will send you a written request for additional information and the entire fee will be returned to you.

(3) If you cannot provide sufficient information due to special circumstances, you will be given an opportunity to explain the circumstances to the state or local deputy registrar. If in their judgment, these circumstances would have prevented you from knowing one or more of the required items, your request will be honored.

#### NEW SECTION

**WAC 246-490-065 Notification when the record is not found.** (1) If the state registrar cannot find the record, you will receive written notice from the state registrar's office including the following information:

A partial refund if you request it in writing within thirteen months of the original request date. In addition:

(a) You may request another search providing different information; or

(b) You may file a delayed birth certificate per RCW 70.58.110 and 70.58.120.

(2) If you request another search using different information, you must pay the full statutory required fee.

#### NEW SECTION

**WAC 246-490-070 Fraudulently registered or changed birth certificates.** (1) If the state registrar receives information that a birth certificate may have been registered or amended through fraud or misrepresentation, neither the state registrar nor local deputy registrars will release copies of that certificate until an informal administrative hearing is held.

(2) The department will notify the registrant or authorized representative, and he or she will have the opportunity to be heard at the hearing.

(a) If the state registrar finds that there was no fraud or misrepresentation, the record will be made available for inspection and copying.

(b) If the state registrar finds that the record was used fraudulently or was misrepresented, the registrar will tag the fraudulent birth certificate in the data base. The record and evidence will be retained, but will not be released or subject to inspection unless:

(i) A court of competent jurisdiction orders the release or inspection of the record; or

(ii) The state registrar utilizes the record for purposes of administering the vital statistics program.

### WSR 00-05-101 PROPOSED RULES GAMBLING COMMISSION [Filed February 16, 2000, 10:19 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: Enhanced card room rules.

Purpose: To implement legislation that passed in 1996 and 1997 enabling card rooms to offer the following: Increased number of tables, alternative collection of fees, jackpot schemes and house banked card games. These rules set forth the regulatory and licensing requirements for card rooms to offer these activities.

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; and 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: Pasco Doubletree Hotel, 252 [2525] North 20th Avenue, Pasco, WA 98301, (509) 547-0701, on April 14, 2000, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Shirley Corbett by April 3, 2000, TDD (360) 438-7638, or (360) 438-7654 ext. 302.

Submit Written Comments to: Susan Arland, Mailstop 42400, Olympia, WA 98504-2400, fax (360) 438-8652, by April 3, 2000.

Date of Intended Adoption: April 14, 2000.

February 15, 2000

Susan Arland

Rules Coordinator

**AMENDATORY SECTION** (Amending Order 373, filed 6/15/99, effective 8/1/99)

**WAC 230-40-010 Social card games—Rules of play—Types of card games authorized.** Social card games shall be played using rules and procedures as set forth in this section. Only card games that have been specifically authorized are allowed to be played in public or social card rooms ((licensed by the commission)). ((The commission hereby authorizes the following card games:))

(1) Social card games shall be played in the following manner:

(a) The game must be played with one or more standard decks of playing cards: Provided, That cards may be removed to comply with rules of a specific game, such as pinochle;

(b) Players shall compete against all other players on an equal basis for nonhouse-banked games or against the licensee for house-banked games;

(c) Each player shall receive their own hand of cards and be responsible for decisions regarding such hand, such as whether to fold, discard, draw additional cards, or raise the wager;

(d) Players shall not place wagers on any other player's or the house's hand and no side bets between players are allowed: Provided, That the following shall not be in violation of this section:

(i) An insurance bet placed in the game of blackjack;

(ii) A tip wager made on behalf of a dealer; or

(iii) "Envy" provisions which allow a player to receive a prize if another player wins a jackpot or odds wager;

(e) A player's win or loss shall be determined during the course of play of a single card game;

(f) No more than two separate games shall be played with a single hand of cards. For purposes of this section, bonus features and progressive jackpots are considered a game; and

(g) The rules of play for each specific game played at a licensed card room shall be maintained on the licensed pre-

mises and immediately available for review by commission staff, local law enforcement, or a player upon request. Commission staff shall approve any modification to such rules prior to implementation. In addition, any rules related to wager or prize pay out restrictions shall be clearly posted in the immediate area of such games.

(2) Nonhouse-banked card games shall only be played in the manner set forth in *The New Complete Hoyle, Revised, Hoyle's Modern Encyclopedia of Card Games*, or a similar authoritative book on card games approved by the director: Provided, That each licensee may make immaterial modifications to each authorized game set out in Hoyle. The following nonhouse-banked card games are authorized:

(a) ~~Poker((—Any poker game described in *Hoyle's Modern Encyclopedia of Card Games*, by Walter B. Gibson, published by Doubleday and Company, Inc., April 1974, 1st edition, pages 219 through 277.))~~;

((2)) (b) Hearts((-));

((3)) (c) Pinochle((-));

((4)) (d) Cribbage((-));

((5)) (e) Rummy((-);

((6) ~~Pan-~~

(7)) (f) Panguingue (Pan);

(g) Pitch((-);

((8) ~~Washington blackjack—as set forth in WAC 230-40-125-~~

(9) ~~Pan-9-~~

((10)) (h) Bid Whist((-);

((11) ~~Those games the director approves on a temporary, case-by-case basis. An application~~) (i) Other games or modifications to approved games may be approved by the director, or the director's designee, on a case-by-case basis. Requests for approval of a game must be submitted in writing, and include the rules of play and all wagering schemes. ((Temporary approvals granted are valid for no more than six months or until adopted by the commission, whichever occurs first.))

(3) House-banked card games shall be approved by the director, or the director's designee, on a case-by-case basis. Request for approval of a house-banked card game must be submitted in writing, including the rules of play and all wagering schemes. A list of all approved games, modifications to games, and rules of play shall be available at all commission offices. The director may approve games in which the determination of whether a player wins or loses depends upon one or more of the following:

(a) The player's hand is a specific:

(i) Pattern or ranking of cards (pair, straight, flush, royal flush, etc.);

(ii) Combination of cards (two queens of hearts, ace and jack of spades, three sevens, etc.); or

(iii) Value of the cards (seventeen, twenty-one, etc.); and/or

(b) The player has a higher ranking or value hand than the house/dealer/banker.

(4) Once a game is approved for play, the director shall not remove it from the authorized list of games without providing licensees written notice. Licensees shall be afforded an opportunity to object to the director's decision. If an

PROPOSED

objection is filed, an administrative law judge shall review the director's decision utilizing the brief adjudicative procedures set forth in WAC 230-50-010.

(5) The licensee shall be notified in writing when the director denies a request for a new game or modification of a game. The notification shall include reasons for the denial and provide the petitioner all information necessary for a formal petition to the commission for rule making, amendments, or repeal, as set forth in WAC 230-50-800.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 230-40-015 Rules by which the authorized card games shall be played.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 230-40-060 Persons shall not share in winnings or charge additional fee for playing cards.
- WAC 230-40-150 Side bets prohibited.
- WAC 230-40-160 Wagers by other than participants prohibited.
- WAC 230-40-900 Public card room enhancement program—Pilot study.

**AMENDATORY SECTION** (Amending Order 184, filed 10/24/88)

**WAC 230-40-030 Number of tables and players limited.** ~~((1))~~ No licensee ~~((to allow a public card room on its premises))~~ shall allow more than ~~((five))~~ fifteen separate tables at which card games are played~~((, nor))~~. No licensee shall allow more than ten players for nonhouse-banked card games and seven players and/or spots for wagering at house-banked card games to participate at any one table at any given time. ~~((Provided: When poker is played, additional players are authorized to participate at the card table(s) as follows;~~

- (a) Class E-1 2 players
- (b) Class E-2 thru E-5 and Class D 4 players

Provided further, that no table shall have more than twelve players.

(2) No licensee to allow a social card room on its premises shall allow more than ten players to participate at any one table at any given time. Provided, when poker is played, they may have two tables with 12 players at each table.

(3) The commission may permit a licensee to exceed the player limits on specific occasions for good cause shown. Requests to exceed the limit shall be submitted to the commission in writing not less than 30 days preceding the date upon which the licensee wishes to exceed the limit. The

request shall indicate the date(s) involved, the reasons why the request is made, and the number of games and players in the games which the licensee desires to allow on that occasion)) Each table shall be permanently numbered and readily identifiable by the licensee's surveillance system.

**NEW SECTION**

**WAC 230-40-040 Fees for house-banked card games—Prohibited—Exception.** No person shall be charged a fee, directly or indirectly, to participate in house-banked card games: Provided, That a licensee may collect a commission of not more than five percent from a winning hand of pai gow poker.

**AMENDATORY SECTION** (Amending Order 300, filed 9/18/96, effective 10/19/96)

**WAC 230-40-050 Fees for nonhouse-banked card playing—Method of assessment and collection—Maximum fees.** ~~((Except as provided in WAC 230-40-055 for card tournaments, no time based or per hand fee shall be charged a person, directly or indirectly, to play in a card game except as set forth in this section. Each type of fee shall be maintained and recorded separately from all other fees as set forth in WAC 230-08-090, and be available for audit by the commission and local law enforcement and taxing authorities:~~

(1) For all card games, the following procedures apply to collection of such fees:

(a) Fees shall be collected in advance by the licensee in cash, or in wagering chips, directly from the player;

(b)) No person shall be charged a fee, directly or indirectly, to play in a nonhouse-banked card game in excess of those fees set forth in this section. Each type of fee shall be maintained and recorded separately from all other fees and be available for audit by commission staff, local law enforcement, and taxing authorities.

(1) The following are authorized methods of assessing fees for playing social card games. Only one method of assessing fees may be used at a table at any given time:

(a) Fees based on a period of time - A specific fee of not more than ten dollars per hour, per player, may be charged to play social card games: Provided, That a licensee may collect the hourly fee in thirty-minute increments;

(b) Fees for each hand played - A specific fee of not more than one dollar per hand, per player, may be charged to play social card games;

(c) Fees based on the amounts wagered during a hand (rake) - A portion of the total amount wagered by a player, not to exceed five dollars per hand or ten percent of total wagers for a hand, whichever is less, may be collected for playing social card games; or

(d) Fees to enter tournaments shall be as set forth in WAC 230-40-055.

(2) Fees shall be collected by a licensed card room employee in the following manner:

(a) Fees assessed on a period of time shall be collected directly from each player by the dealer or floor supervisor

responsible for that particular section of the card room. The "direct collection," "chip rack," or "drop box" methods set forth in this section may be used for collection of fees assessed on a period of time;

(b) Fees assessed on a per-hand basis shall be placed in a designated area of the table by the player and collected by the dealer before the first round of cards has been dealt. After collection, the dealer shall deposit all chips or coins in the chip rack or drop box, as applicable;

(c) Fees assessed on the amounts wagered during a game shall be collected by the dealer during play of the hand and placed in a designated area of the table. Once the maximum fee for a hand is accumulated, the dealer shall spread the chips or coins to allow players and the surveillance system the ability to verify the amount collected. After verification, chips shall be deposited in the dealer's chip rack or drop box, as applicable;

(d) All fees to enter tournaments shall be collected in advance of the start of play in accordance with WAC 230-40-055; or

(e) Licensees may apply to the director for approval of alternate fee collection methods. If approved, the method of collection shall be set forth in the letter granting approval.

(3) All fees collected from players shall be maintained and recorded as set forth in WAC 230-08-090. All collections shall be kept separate from all other chips and cash in the card room until recorded in the daily card room records and deposited in the cashier's cage. All chips and cash in the cashier's cage shall be kept separate from all other chips and cash located on the licensed premises at all times card games are conducted. The following methods may be used for control of fees collected for card games:

(a) Direct collection method - Fees are collected directly from each player by a licensed card room employee responsible for that particular section of the card room and deposited in the card room cage serving the area of the card room from which collections are made. Collections shall be made at least once per hour, at times designated by the licensee. All fees shall be recorded immediately upon collection, per WAC 230-08-090. This collection method may only be used when assessing fees based on a period of time.

(b) Chip rack method - This method is allowed for licensees that are licensed with three or fewer tables. It requires a licensed center dealer, a game lay-out with a designated area for player fees, and a chip rack separated into sections for each type of fee collected. Fees are temporarily stored in the chip rack and controlled by a licensed dealer until collected by the floor supervisor. All chips collected as fees shall be removed from the dealer's chip rack at least every four hours by the licensed card room employee responsible for that particular section of the card room. The removal process shall include the counting of chips and coins in the presence of players and immediately recording the totals on the record prescribed by the commission. The dealer and the supervisor making the removal shall each initial the prescribed record verifying its accuracy.

(c) Drop box method - Fees are temporarily stored in a numbered, locked drop box. The drop box method requires a center dealer, a table with a designated area for each type of player fee and/or fees removed from the pot, and a separate

drop box for each type of fee. Drop box movement, storage, and counting shall be conducted as prescribed in WAC 230-40-840. The drop box shall be located in a position that is isolated from the pot area and in plain view of all players and the surveillance system.

(4) No player shall be required to pay for or purchase any other goods or services as a condition of playing cards ((except as authorized by this section)): Provided, That:

(a) A bona fide nonprofit or charitable organization may charge its usual membership fee to belong to the organization; and

(b) Licensees may collect an admission fee when providing entertainment, as long as the fee is charged to all patrons;

((e)) (5) A schedule setting forth all fees to participate in card games shall be posted in plain view where it can be seen by the players in the card games((-);

((f)) (6) A person requesting a new deck of cards beyond those regularly furnished by the ((operator, as required by WAC 230-40-070(2),)) licensee may be charged a fee not to exceed the actual cost to the licensee ((of)) for the deck. ((Further,)) Class D licensees may charge a fee not to exceed actual cost to the licensee per deck for each deck of playing cards furnished to a table as required by these rules, or as requested by any player at the table. The fee shall be collected in cash directly from the players, or the player requesting the deck, at the time the deck is introduced into the game((-);

((3) This rule shall not prevent a bona fide nonprofit or charitable organization which has been established and operated for purposes other than card playing from charging its usual membership fee to belong to the organization.

(4)) (7) The licensee shall collect the same fee from all players at a table ((except licensed card room employees or the licensed owner)). If the licensee elects to allow free play, then all players at a table must be allowed to play for free((-;

(5) The amount collected shall be recorded by the licensee each half hour on forms supplied by the commission.

(6) All records required by this rule shall be maintained for a period of three years from the end of the licensee's fiscal year for which the record is kept.

(7) This rule shall not prevent a licensee from collecting an admission fee for entry into that portion of the licensed premises conducting entertainment, provided that the same fee is charged to all patrons)): Provided, That a licensee may allow licensed card room employees and owners to play without a fee if fees are based on time, as authorized by subsection (1)(a) of this section.

**AMENDATORY SECTION** (Amending Order 192, filed 5/16/89)

**WAC 230-40-070 Licensee to furnish all cards, chips and other services.** Each public card room and Class A social card room licensee shall furnish ((the following items and services)) all cards in connection with all card games conducted on its premises at no additional charge to the players((-;

(1) Chips. Chips for use in wagering shall be of generally conventional size and design. Chips furnished by a licensee

shall be so designed that they are readily identifiable as having been furnished by that particular licensee.

~~(2) Cards or mah-jongg tiles. The deck, or decks of cards being used at a given table where any poker game is being played shall be changed at a minimum every half hour by the licensee.~~

~~Playing cards or mah-jongg tiles furnished shall be of generally conventional size and design. Playing cards or tiles that have been shaved, sanded, cut, carved, or otherwise marked in any manner which may make certain cards or tiles identifiable to players other than as allowed by the rules of the particular game are prohibited.~~

~~(3)), except as provided in WAC 230-40-050(6). All chips and cards shall be of generally conventional size and design, and include safeguards that maximize the integrity of the card games. The following standards and procedures apply to this section:~~

~~(1) The licensee shall furnish chips and cards that meet the following requirements:~~

~~(a) Chips. Chips must include the house name or logo, clearly denote the chip value, be produced by a licensed manufacturer, and purchased from a licensed manufacturer or distributor: Provided, That the director may exempt Class E licensees with five tables or less from this provision if chips are readily identifiable as having been furnished by that particular licensee and values of chips are clearly posted in the card room; and~~

~~(b) Cards. The deck or decks of cards must include the house name or logo, be produced by a licensed manufacturer, and be purchased from a licensed manufacturer or distributor: Provided, That Class E licensees with five tables or less are exempt from this provision. These licensees shall comply with all other requirements related to the type of games being played.~~

~~(2) Bank services. The licensee shall sell its chips to all players desiring to buy them ((not in excess of any limits set by the commission)) and redeem all chips at the value for which they were sold. ((The value at which the various types of chips are sold and redeemed shall be conspicuously posted and visible to each person prior to that person purchasing chips. Money taken in on chips sold and table fees collected shall be kept)) The licensee shall collect the money taken in on chips sold and fees collected and shall keep these funds separate and apart from all other money received by the licensee.~~

~~((4)) (3) Chips ((may)) shall be sold for cash only and ((no)) a licensee shall not extend credit of any nature ((shall be extended by an operator)) to a person purchasing chips: Provided, That ((an operator)) a licensee may accept a check in accordance with WAC 230-12-053 and 230-40-845. ((Counter checks are prohibited.)) Each receipt by a person of a quantity of chips from the ((operator)) licensee shall be a separate transaction for the purpose of this rule. Checks received for chips retained by the ((operator)) licensee after close of business shall be deposited by the ((operator)) licensee not later than the second day following receipt upon which the ((operator's)) licensee's bank is open for business.~~

~~((5) No licensee shall allow) (4) The licensee shall safeguard all chips and cards to assure integrity of games and banking services and no licensee shall allow:~~

~~(a) Playing cards that have been shaved, sanded, cut, carved, or otherwise marked in any manner which may make certain cards identifiable to players other than as allowed by the rules of the particular game.~~

~~(b) Any cards or chips not furnished by the licensee ((on that business day)) to be used in any card game conducted upon its premises((-No licensee shall allow)); or~~

~~(c) Any other person to buy or sell chips for use in card games upon its premises ((nor provide any other item or service for use in connection with the game)).~~

AMENDATORY SECTION (Amending Order 252, filed 6/15/94, effective 7/16/94)

WAC 230-40-120 Limits on wagers in card games. Social and public card room licensees shall not allow wagering limits set by the commission to be exceeded in any card game. The number and value of wagers in card games are limited as follows:

~~(1) ((The maximum number of wagers in any betting round shall be three, comprised of an initial wager plus two raises;~~

~~(2) The maximum number of a wager in any betting round shall be as follows:~~

~~(a) Games with a single betting round—ten dollars per wager;~~

~~(b) Games with multiple betting rounds:~~

~~(i) Two betting round games—wagers for the first round shall not exceed five dollars, and the second round shall not exceed ten dollars;~~

~~(ii) Three betting round games—wagers for the first two betting rounds shall not exceed five dollars, and wagers for the third betting round shall not exceed ten dollars;~~

~~(iii) Four betting round games—the wagers for each round may be structured by house rule: Provided, That the total wagers for all four betting rounds shall not exceed twenty-five dollars, and any single wager shall not exceed ten dollars; and~~

~~(iv) Five betting round games—the wagers for each round may be structured by house rule: Provided, That the total wagers for all five betting rounds shall not exceed thirty dollars, and any single wager shall not exceed ten dollars.~~

~~(e) Games that do not allow raises—single wager not to exceed ten dollars for each betting round.~~

~~(3)) Nonhouse-banked card games:~~

~~(a) Poker:~~

~~(i) There shall be no more than five betting rounds in any one game;~~

~~(ii) The maximum number of wagers in any betting round shall be four, comprised of an initial wager plus three raises; and~~

~~(iii) The maximum amount of a single wager shall not exceed twenty-five dollars.~~

~~(b) Games based on achieving a specific number of points - each point shall not exceed five cents in value.~~

~~((4)) (c) An ante, except for panguingue (pan), shall not be more than ((ten dollars)) the maximum wager allowed for the first betting round for any game. The ante may, by house rule, be made by one or more players, but the total ante may not exceed ((ten dollars)) the maximum wager allowed for~~

PROPOSED



PROPOSED

~~the first betting round. ((No one player can ante more than the maximum wager allowed in the first round.)) An ante, by house rule, may be used as part of a player's wager.~~

~~((5)) (d) Panguingue (pan) - the maximum value of a chip for a payoff ((with)) shall not exceed ((four)) ten dollars. An ante will not exceed one chip. ((No)) Doubling of conditions is prohibited. Players going out may collect not more than two chips from each participating player.~~

~~((6) Provided, Washington blackjack shall be subject to the rules and wagering limits set forth in WAC 230-40-125.))~~

(2) House-banked card games:

(a) Licensees authorized to conduct Phase I house-banked card games shall not allow a single wager to exceed twenty-five dollars;

(b) Licensees authorized to conduct Phase II house-banked card games shall not allow a single wager to exceed one hundred dollars;

(c) A single wager may be made on each separate element of chance. In addition, for blackjack, an additional wager may be placed for doubling down or splitting pairs; and

(d) Bonus wagers for house-banked progressive jackpots shall not exceed one dollar. Bonus wagers with a predetermined prize amount based upon a separate element of chance within the same game shall not exceed the authorized maximum table limits as described in subsection (1)(a)(i) and (ii) of this section.

(3) House rules establishing wagering limits for each type of game played shall be posted in plain view where it can be seen by the players in the card game.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-40-125                      Washington blackjack—  
Rules of play—Wagering  
limits.

AMENDATORY SECTION (Amending Order 23, filed 9/23/74)

**WAC 230-40-130 Wagers to be made with chips only.** All wagers and fees to play made in connection with a card game shall be made with chips furnished by the ~~((licensed premises. No money, nor other thing of value, shall be used directly in the game itself))~~ licensee: Provided, That house-banked card games may use coins with a value of fifty cents or twenty-five cents: Provided further, That coins with a value of less than twenty-five cents may be used for pai gow poker games.

AMENDATORY SECTION (Amending WSR 95-23-109, filed 11/22/95, effective 1/1/96)

**WAC 230-40-200 ((Participants)) Players to compete on equal terms—Deal to rotate among players. ((Participants))** Players in card games shall compete on equal terms

with all other ~~((participants))~~ players in the game, and solely as a ~~((participant))~~ player therein.

The deal in any series of nonhouse-banked card games shall be passed from player to player, unless the table incorporates a house dealer as per house rule. No player who deals a game shall deal another game until each other player at the table has dealt a game in his turn: Provided, That any player may voluntarily waive his right to deal any particular game.

~~((Licensees shall take all necessary measures to insure that card games played upon their premises are played in this manner.))~~

AMENDATORY SECTION (Amending WSR 95-23-109, filed 11/22/95, effective 1/1/96)

**WAC 230-40-225 House dealer allowed in certain games.** ~~((Notwithstanding the provisions of WAC 230-40-200;))~~ Any licensee may furnish a dealer ~~((or "mucker"))~~ in any ~~((Washington blackjack, pan or poker))~~ game played on the licensed premises. Dealers shall have no financial interest, directly or indirectly, in the outcome of such game and shall not otherwise participate or play in the game: Provided, That a licensee shall be required to have a house dealer for all house-banked card games, card games operated with a player-supported jackpot, or card games authorized to assess fees for each hand played or fees based on amounts wagered.

AMENDATORY SECTION (Amending WSR 95-23-109, filed 11/22/95, effective 1/1/96)

**WAC 230-40-400 Hours ((limited)) for card games—Procedures for changing hours.** The hours during which card games may be played in licensed public card rooms shall be limited as follows:

(1) Licensees shall not allow the use of their premises for card playing between the hours of 2:00 a.m. and 6:00 a.m.: Provided, That the director may allow closing hours to be adjusted beyond 2:00 a.m. as long as the following conditions ~~((remain in effect))~~ are met:

(a) ~~((The local law enforcement agency with jurisdiction concurs;~~

~~((b) Other state agencies involved in regulation of the business do not object; and))~~ The director shall consult with the local law enforcement agency which has jurisdiction;

(b) The director shall consult with other state agencies involved in regulation of the business;

(c) A licensee must observe a four-hour period of closure at the end of each business day before beginning the next period of operation.

~~((2)) (d) The food and/or drink business being stimulated shall be open to the public for business any time card games are conducted((-- Provided, That entry to the business by new customers may be limited if access to the premises is open to the commission, law enforcement, or other state or local regulatory agencies, and service of food and nonalcoholic beverages is available for customers remaining on the premises after 2:00 a.m.));~~

~~((3)) (e) At all times during the hours of operation of a Class E, F or house-banked card room, ((the operator or)) a~~



licensed card room employee must be on duty and in the licensed card room area; and

(f) The licensee complies with any other terms and conditions imposed by the director.

(2) The director may deny the request for extended hours or revoke hours already approved if the local law enforcement agency or a state agency objects or if the director determines that the licensee has violated any provisions of chapter 9.46 RCW, any other commission rule, or any of the terms set forth in subsection (1) of this section. All objections to changing a licensee's operating hours or requests to revoke an approved operating schedule must be submitted in writing.

(3) The commission shall afford a licensee an opportunity for a brief adjudicative proceeding prior to denying or revoking the licensee's authorization for extended card room hours. The brief adjudicative proceeding shall be heard by an administrative law judge, under the provisions set forth in WAC 230-50-010(6), and RCW 34.05.482 through 34.05.494.

**AMENDATORY SECTION** (Amending WSR 97-14-013, filed 6/20/97, effective 7/21/97)

**WAC 230-50-010 Adjudicative proceedings—Hearings.** (1) ~~((Adjudicated))~~ Adjudicative proceedings shall be commenced for any and all matters wherein the commission is causing administrative charges to be brought against any applicant, licensee or permittee within the limitations to chapter 34.05 RCW as applicable.

(2) The commission shall afford an applicant for a license an opportunity for an ~~((adjudicated))~~ adjudicative proceeding prior to denying such application, and shall afford a licensee the opportunity for an ~~((adjudicated))~~ adjudicative proceeding prior to suspending or revoking a license.

(3) The commission will afford a person applying to the commission for approval of a pull-tab dispensing device under WAC 230-30-095 an opportunity for an ~~((adjudicated))~~ adjudicative proceeding prior to denying approval of such device.

(4) No hearing will be conducted with respect to any ~~((adjudicated))~~ adjudicative proceeding unless an application for an ~~((adjudicated))~~ adjudicative proceeding and request for hearing is timely filed by the applicant or licensee with the commission in compliance with WAC 230-50-210. The application must be made upon a form to be obtained from the commission, or facsimile thereof, and must be received within 20 days following service upon the party affected by the commission or the director of a notice of administrative charges and opportunity for an ~~((adjudicated))~~ adjudicative proceeding. Said document shall contain the maximum penalty that may be assessed should an application not be filed by the party affected. An application for an ~~((adjudicated))~~ adjudicative proceeding and request for hearing shall accompany all notices of administrative charges.

(5) If an application for an ~~((adjudicated))~~ adjudicative proceeding is not timely filed, then the party affected shall have waived the right to a hearing on the allegations set forth in the notice of administrative charges. The party shall be deemed to be in default pursuant to RCW 34.05.440 and the commission and director may take action against the party

not to exceed the maximum penalty as stated in the notice of administrative charges and opportunity for an ~~((adjudicated))~~ adjudicative proceeding, which action shall be final.

(6) The procedures of RCW 34.05.485, brief adjudicative proceedings, shall be used for the following purposes:

(a) All hearings in which the penalty sought by the commission is for a suspension of seven days or less;

(b) Hearings held pursuant to WAC 230-50-015 (stay of summary suspension);

(c) Hearings held pursuant to WAC 230-04-400(3) (failure to pay required gambling taxes);

(d) Hearings held pursuant to WAC 230-04-190 (10)(c) (two part payment plan: Failure to make second payment);

(e) Hearings in which the parties have stipulated to facts or the parties have stipulated to charges, and the hearing is limited to a determination of whether facts constitute violations as charged and/or determination of appropriate penalty to be imposed;

(f) Denial of an application to operate at a higher bingo license class when the licensee has been restricted by WAC 230-20-062;

(g) Petitions for a variance to bingo net return requirements authorized by WAC 230-20-060; ~~((or))~~

(h) Denial or revocation of extended card room hours pursuant to WAC 230-40-400;

(i) Denial of request for Phase II pursuant to WAC 230-40-810;

(j) Repeal of an approved card game pursuant to WAC 230-40-010; or

(k) Where the parties have stipulated to the use of brief adjudicative proceedings.

#### NEW SECTION

**WAC 230-40-600 Authorization procedures for player-supported jackpots.** Player-supported jackpots (PSJs) shall be tightly controlled and shall not be operated prior to approval by the director or the director's designee. The following procedures apply to approval of PSJs:

(1) The request shall be in writing and include at least the following:

(a) A detailed description of the game;

(b) All internal control procedures associated with controlling the game and accounting for fees and prizes;

(c) All rules of play; and

(d) The name of the prize fund custodian.

(2) Any changes to the approved game or applicable internal controls must be forwarded to the commission staff for review and approval prior to implementation.

#### NEW SECTION

**WAC 230-40-610 Player-supported jackpots—Restrictions—Manner of conducting—Approval.** A player-supported jackpot (PSJ) is a separate contest of chance directly related to the play and/or outcome of authorized non-house-banked card games but which is not the card game itself. Card rooms with a Class F or house-banked license may establish a prize fund for the purpose of operating a PSJ for nonhouse-banked card games. Any PSJ must be

approved in writing by the director or the director's designee prior to play. A PSJ must meet the following requirements:

(1) Funding of a PSJ: A licensee may provide house funds to establish a PSJ. The licensee shall issue a check from the general business account into the PSJ account to start the prize fund. Recouping of start-up funds shall be done by issuing a check from the PSJ account to the business general account. Electronic bank transfers shall satisfy this requirement. Start-up funds shall not exceed five thousand dollars per PSJ.

(2) A licensee may assess a portion of player's wagers for a jackpot prize. Such amount shall not exceed one dollar per hand or game for each PSJ. This assessment shall be separately collected using the rake method.

(3) The licensee acts only as the custodian of the PSJ funds and maintains no legal right to the funds. All PSJ funds shall be awarded as prizes. PSJ funds shall only be used for awarding cash prizes based upon a format approved by commission staff. An administrative fee not to exceed ten percent of the amount collected for a PSJ may be imposed by the licensee.

(4) Each licensee shall designate at least one "prize fund custodian" who shall be responsible for safeguarding and disbursing funds to winners. A prize fund custodian may be an owner, partner, officer, or licensed individual designated by a card room owner, partner, or officer. The custodian shall have signature authority for prize fund bank accounts and ensure accountability of all funds collected for use in a PSJ. The licensee shall meet the deposit requirements of WAC 230-12-072.

(5) Prize amounts paid in cash shall not exceed five hundred dollars. Prize amounts not awarded in cash shall be paid by check, the type which provides a duplicate copy, which shall not be cashed on the licensee's premises. A record of all prizes paid shall be maintained in the format prescribed by commission staff and shall include:

(a) For prizes less than one hundred dollars, a system of accounting denoting each individual prize may be utilized.

(b) For prizes one hundred dollars and above, the following information shall be recorded on a prize record:

- (i) Full printed name;
- (ii) Date of birth;
- (iii) Street address;
- (iv) Type of identification reviewed;
- (v) Amount of the prize awarded;
- (vi) Description of the winning hand;
- (vii) Time and date awarded; and
- (viii) The supervisor's, dealer's and winner's initials.

(c) Upon awarding a prize of five hundred dollars or more, the dealer shall fan the winning hand in view of the surveillance camera. The hand shall be collected and sealed with the prize record. The winning hand and remaining deck shall be maintained on the premises as part of daily card room records for a period of seven days, unless released by a commission agent.

(6) Owners and on-duty card room employees may participate in card games that offer a PSJ, but may not share in the winnings of any prize awarded. If playing in a game with a PSJ, owners and card room employees must turn their cards face up at the end of each game so that the cards may be

observed by other players at the table and surveillance. Any prize winnings an owner or on-duty employee may be entitled to under game rules, must be divided equally among the other players at the table: Provided, That off-duty employees may participate in card games that offer a PSJ and share in the prize winnings.

(7) All card games offering a PSJ must utilize a house dealer.

(8) Security requirements: Each gaming table offering a PSJ shall be required to install a closed circuit television system as outlined in WAC 230-40-825.

(9) In the event that a licensee ceases to operate a card room, fails to maintain a valid card room license, or discontinues a PSJ, the balance (less any nonrecouped seed money) of all PSJ accounts will be forwarded to the Washington State Council on Problem Gambling: Provided, That a licensee may seek approval from the director or the director's designee to revise their prize contests in order to distribute all accumulated prize funds.

(10) House rules to include administrative fees shall be posted in a location readily visible by all players and disclose the conditions under which prizes may be won, the prize amount, cost to participate, and any other conditions which may affect the outcome of the game.

(11) If a dispute arises involving the outcome of a PSJ, the licensee shall preserve the video recording, the winning hand and remaining deck, and all records for the game where the dispute occurred and shall notify commission staff within twenty-four hours. The licensee shall document all information pertaining to the dispute including:

- (a) The names, addresses, and phone numbers of all players, card room staff, and any witnesses involved;
- (b) Amount of the advertised PSJ; and
- (c) A full description of the circumstances surrounding the dispute.

(12) All disputes involving a PSJ will be investigated by commission staff, with a report submitted to the director. A written decision will be issued by the director, or the director's designee, and such decision shall be final.

(13) During the course of dispute resolution, the commission may become the temporary custodian of any and all prize funds. The PSJ will be suspended until the dispute is resolved.

#### NEW SECTION

**WAC 230-40-615 Nonhouse-banked card games—Administrative and accounting control structure—Organization.** Licensees conducting activities that require a Class F license shall assure that such activities are closely controlled. Class F licensees shall comply with the following additional requirements:

(1) Establish a system of internal administrative and accounting controls that requires, at a minimum, the following:

- (a) Trained personnel;
- (b) Segregation of duties for all employees involved in the operation;
- (c) Fee collection and funds safeguarding procedures;

- (d) Playing card and chip inventory; and
- (e) Security and supervision requirements.

(2) The licensee shall have adequate licensed employees to assure commission requirements are met. At a minimum, the following employees are required:

(a) At least one supervisor for every five tables shall be required: Provided, That a single supervisor may supervise up to seven tables, if only seven tables are in operation and the layout was preapproved by commission staff;

(b) A licensee which utilizes two separate areas of a particular gaming establishment shall require at least one supervisor in each area; and

(c) The licensee must have at least two licensed card room employees in the card room at all times player-supported jackpot schemes are in play and/or alternative methods of collection are being utilized. One such employee must be a floor supervisor.

#### NEW SECTION

**WAC 230-40-800 Operating rules for house-banked card games.** Licensees that operate house-banked card games shall establish rules and procedures governing each specific house-banked card game played at their premises. The following restrictions and procedures apply:

- (1) House-banked card games shall not be operated prior to approval as set forth in WAC 230-40-010;
- (2) All house-banked card games shall be dealt from a dealing shoe or an approved shuffling device;
- (3) The licensee shall submit all rules governing the game to commission staff for approval. All requests shall be in writing and include at least the following:
  - (a) Rules of play, including those specified by the manufacturer or supplier;
  - (b) Any administrative or accounting controls applicable to specific games;
  - (c) All specifications provided by the equipment manufacturer or supplier applicable to gaming equipment utilized in the game;
  - (d) Physical characteristics of the following:
    - (i) Cards (including procedures for receipt and storage);
    - (ii) Gaming chips used to play the game;
    - (iii) All gaming tables and layouts;
    - (iv) Dealing shoes;
    - (v) Card shuffling devices;
    - (vi) Card peeking devices;
    - (vii) Bill changer devices; and
    - (viii) Such other equipment as may be required for use in otherwise authorized games;
- (4) Rules for each authorized game, shall include at least the following:
  - (a) Procedures of play;
  - (b) Minimum and maximum permissible wagers;
  - (c) Shuffling, cutting, and dealing techniques, as applicable;
  - (d) Dealer take and pay procedures;
  - (e) Payout odds on each form of wager, including any factors affecting payments to the player, such as maximum player or aggregate prize restrictions; and

(f) Procedures to be followed on occurrence of irregularities, including examples of irregularities applicable to each game;

(5) A summary of playing procedures and rules of play for each game shall be visibly displayed in the gaming area. If the procedures or restrictions are game specific, they shall be displayed at each gaming table at which the game is played;

(6) Full details on all promotions, schemes or other means used to promote card games operated in card rooms which offer house-banked card games must be submitted to commission staff and be approved prior to implementing.

#### NEW SECTION

**WAC 230-40-803 Phase II wager limits—Restrictions—Procedures.** A house-banked card room licensee shall not increase wager limits to Phase II levels prior to demonstrating that it is capable of operating at higher wager limits and receiving commission approval. The following procedures and restrictions apply to the Phase II approval process:

##### **Restrictions.**

- (1) Prior to requesting approval for Phase II limits a licensee shall:
  - (a) Operate at Phase I limits for a minimum of six months;
  - (b) Have demonstrated compliance with commission requirements. A licensee shall be deemed to have demonstrated compliance when:
    - (i) Administrative actions are not pending;
    - (ii) Administrative actions have not occurred for at least the last six months; and
    - (iii) It is not currently under investigation by the commission or other law enforcement agency; and
  - (c) Have paid all gambling taxes due to counties, cities, or towns. For purposes of this section, gambling taxes include those taxes owed as of the most recent reporting period (month or quarter), as provided in the jurisdiction's ordinance, plus any interest and/or penalties that may be due.

##### **Review procedures.**

- (2) Requests for an increase in wagering limits shall be processed in the following manner:
  - (a) The licensee shall submit a written request for review, including a deposit of five thousand dollars to pay for the review;
  - (b) Commission staff shall review the licensee's entire house-banked card game operation. Such review shall include an evaluation of:
    - (i) The licensee's written internal accounting and administrative controls to ensure they are not materially different from those submitted and approved and that the licensee is following such in every material aspect;
    - (ii) The licensee is operating house-banked card games in accordance with applicable WAC rules; and
  - (c) A summary of the staff's findings and a recommendation shall be presented to the commission at a regular public meeting.

PROPOSED

**Approval process.**

(3) Upon the completion of the staff's review, the director may authorize a licensee to increase Phase II wagering limits for up to five tables pending commission approval at the next scheduled meeting;

(4) The director may decline to forward a licensee's request for Phase II wagering limits to the commission if:

(a) The licensee has failed to comply with any of the restrictions set forth in subsection (1) of this section; or

(b) The staff's review reveals the licensee has failed to follow its approved internal control procedures and such failures are material or, because of repetition, would be material; or

(c) Material violations of WAC rules are noted; and

(d) Actions to correct any deficiencies have not been completed and staff afforded adequate time to conduct follow-up review.

(5) If the director fails to forward a licensee's request within sixty days following completion of the staff's review and has not commenced administrative actions, a licensee shall be afforded an opportunity to a commission review of the request. The commission may:

(a) Grant the licensee Phase II wager limit approval;

(b) Grant the licensee conditional Phase II approval; or

(c) Refer the request back to the staff for further investigation.

**NEW SECTION**

**WAC 230-40-805 House-banked progressive jackpot prizes—Procedures—Restrictions.** Licensees are authorized to operate progressive jackpot prizes in conjunction with approved house-banked card games. Entry into a progressive jackpot is based upon a separate wager by a player, part of which accrues to a progressively increasing prize. A player wins the jackpot prize, or portion thereof, based upon achieving a predetermined pattern or combination of cards. Each licensee operating such games shall ensure they are closely controlled, all the funds collected are accounted for, and prizes and methods of winning are adequately disclosed to players. The following procedures and restrictions apply to progressive jackpots:

(1) House-banked progressive jackpot restrictions:

(a) The amount of funds accrued to the primary and reserve or secondary jackpots shall increase by a predetermined amount of each wager made, in accordance with the rules of the game;

(b) The amount of the progressive jackpot eligible to be awarded as a prize shall be prominently displayed at each gaming table;

(c) The beginning amount of each progressive jackpot offered must be recorded, including explanations for any increase or decrease in the amount of the prize offered. This documentation shall be maintained with the progressive jackpot records; and

(d) A licensee may establish a maximum limitation on a progressive jackpot prize. If such a limit is established:

(i) The amount must be equal to or greater than the amount of the jackpot when the limit is imposed; and

(ii) A notice of the limit must be conspicuously posted at or near the game;

(2) A licensee shall not reduce the amount of a progressive jackpot prize, except as authorized by this section including reserve or secondary jackpots, that have been accrued and displayed to players. The following adjustments are allowed to accrue progressive jackpot prizes:

(a) Prizes may be paid when a player wins the jackpot or a portion thereof. In such instances, the jackpot and advertised amount shall be reduced only by the amount won;

(b) An adjustment may be made to correct malfunctioning equipment or to prevent the display of an amount greater than a predetermined maximum prize limit; or

(c) A reserve or secondary jackpot may be reduced to recover a seed amount as long as it is properly documented in the records;

(3) House-banked progressive jackpot prizes, including any reserve or secondary jackpots, are deemed to be funds for which players have a vested interest and may only be removed from play under the following conditions:

(a) The director provides the licensee written approval of a plan to disburse all jackpot funds back to the players. The request for approval shall include full details of the distribution plan; and

(b) The licensee must notify players of any planned discontinuance, including closure of the business, by conspicuously posting notice for a period of ten days prior to beginning the discontinuance process;

(4) A licensee may temporarily remove a progressive jackpot game from play subject to the following conditions:

(a) The removal and reasons must be approved in writing by commission staff; and

(b) The disruption is caused by circumstances beyond the control of the licensee, or for other good cause (for example: Remodeling the card room); and

(c) Players are notified of the disruption and the estimated date of continuance.

**NEW SECTION**

**WAC 230-40-810 House-banked card games—Odds based wagers—Prizes—Restrictions—Procedures.** A licensee may establish pay out limits for odds based wagers made at house-banked card games. An "odds based wager" means a wager for which the player is paid an increased amount over and above the amount wagered if a predetermined pattern or combination of cards is achieved. For example, a royal flush, four aces, a pair, etc. Limitations on the payout for odds based wagers are allowed only if the following restrictions and procedures are met:

(1) All payout limits, procedures for computing limits, and methods of disclosing limits to patrons shall be preapproved by the director or designee;

(2) Any limits applied to individual players' winnings shall not be less than the higher of the following calculations:

(a) The maximum wager allowed for the game, times the highest odds offered up to fifty-to-one (50 to 1). For example: The maximum wager is one hundred dollars (\$100) and odds are fifty-to-one (50 to 1); then the per player minimum is five thousand dollars ( $\$100 \times 50 = \$5,000$ ); or

(b) The minimum required wager for the game, as determined by house rule, times the highest odds offered for any wager in the game. For purposes of this section the "minimum required wager" shall be the total amount a player must risk in order to win. For example: The minimum allowed wager is ten dollars (\$10) and the maximum odds are one thousand-to-one (1,000 to 1); then the per player minimum is ten thousand dollars (\$10 x 1,000 = \$10,000);

(3) Any limits applied in aggregate to payments to all players in a game for winning wagers shall not be less than two times the individual player limit, as computed in subsection (2) of this section;

(4) The licensee shall clearly disclose any limits to per player or aggregate payouts on the table layout: Provided, That the director may approve alternative methods of disclosure; and

(5) The licensee shall clearly disclose all procedures for computing any per player or aggregate payouts. This explanation must be available to players in the form of a brochure or other printed media.

#### NEW SECTION

**WAC 230-40-815 House-banked card games—Administrative and accounting control structure—Organization.** Each licensee operating a house-banked card game shall ensure that all games are closely controlled, operated fairly and in accordance with all rules of the commission. The following control procedures and conditions shall be met:

(1) The licensee shall have a system of internal controls that include at least the following:

(a) Administrative controls, which include, but are not limited to, the organization's plan, procedures, and records concerned with decision processes leading to management's authorization of transactions; and

(b) Accounting controls which include the licensee's plan, procedures, and records concerned with the safeguarding of assets and the reliability of financial records. These controls must be designed to provide reasonable assurance that:

(i) Transactions are executed in accordance with management's general and specific authorization;

(ii) Transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles, and to maintain accountability for assets;

(iii) Access to assets is permitted only in accordance with management's authorization; and

(iv) The recorded accountability for assets is compared with existing assets at least annually and appropriate action is taken within five working days with respect to any differences.

(2) The licensee's system of administrative controls shall provide for the following:

(a) Competent personnel with an understanding of prescribed procedures;

(b) The segregation of incompatible functions so that no employee is in a position to perpetrate and conceal errors or irregularities in the normal course of his or her duties; and

(c) Each employee of a house-banked card room shall be licensed by the commission and shall be knowledgeable in all accounting and internal control practices and procedures relevant to each employee's individual function.

(3) The licensee shall, at a minimum, establish the following departments or functions that shall be independent from all other departments or functions:

(a) A surveillance department which shall not include security functions or personnel. The head of surveillance shall be responsible for, but not limited to, the following:

(i) The clandestine surveillance of the operation and conduct of the table games;

(ii) The clandestine surveillance of the operation of the cashier's cage;

(iii) The video and audio taping of activities in the count rooms;

(iv) The detection of cheating, theft, embezzlement, and other illegal activities in the gaming facility, count rooms, and cashier's cage;

(v) The video taping of unusual or suspected illegal activities;

(vi) The notification of appropriate supervisors and commission staff, within three working days, upon the detection of cheating, theft, embezzlement, or other illegal activities; and

(vii) Ensuring that each dealer is evaluated to determine if all required dealer procedures and techniques set forth in the licensee's approved internal controls are followed.

(b) A security department responsible for at least the following:

(i) Control of cards and dealing shoes, including storage of new and used cards and shoes, and control of the disposition and/or destruction of same when removed from service; and

(ii) Transfer of cash and chips to and from the gaming tables, cage and count room.

(c) A gaming operation department supervised by a gaming operation department manager who shall be responsible for the operation of all house-banked card games conducted by ensuring the following:

(i) Card games are operated by licensed dealers who are assigned to each gaming table;

(ii) A floor supervisor is assigned the responsibility for the overall supervision of the conduct of gaming within a pit and can supervise no more than five tables: Provided, That a single supervisor may supervise up to seven tables, if only seven tables are in operation and the layout was preapproved by commission staff. The shift manager shall oversee floor supervisors and report to the gaming operation department manager; and

(iii) A shift manager, who reports to the gaming operation department manager, is assigned to supervise all gaming related activities that occur during each shift. In the absence of the gaming operation department manager, the shift manager shall have the authority of a gaming operation department manager: Provided, That licensees who are licensed for five or fewer tables and are operating at Phase I limits may

operate with one level of supervision on the gaming floor. All tables must be in one pit and the supervisor in charge must be on the gaming floor at all times.

(d) An accounting department supervised by an individual who shall report directly to the CEO or COO. The responsibilities of the accounting department shall include, but not be limited to, the following:

- (i) Implementing and monitoring of accounting controls;
  - (ii) The preparation, control, and storage of records and data required;
  - (iii) The control of unused forms inventory along with reconciliation of forms used; and
  - (iv) The control and supervision of the cashier's cage.
- (4) Any changes to the licensee's system of internal controls must be submitted to commission staff and be approved prior to implementation.

#### NEW SECTION

#### **WAC 230-40-820 House-banked card games—Internal control system evaluation—Required procedures.**

Each licensee operating house-banked card games shall provide an operating environment that will assure that commission rules are adhered to and results of operations can be confirmed by commission staff. In order to assure compliance with this requirement, a complete evaluation of the licensee's system of internal administrative and accounting control procedures shall be completed annually. This evaluation shall be independent of all normal regulatory functions performed by the commission staff. A report documenting the results of the evaluation, including any material discrepancies noted and any corrective actions taken, shall be provided to the licensee. The following restrictions and procedures apply to this process:

(1) The evaluation shall be completed by commission staff: Provided, That if commission staff are not available, the licensee, with prior approval, may utilize any of the following:

(a) A certified public accountant (CPA) that is independent in regard to the licensee and which is licensed to perform such engagements by the state of Washington. Prior to entering into a contract for such services, a CPA shall demonstrate adequate knowledge and experience in gambling, and commission rules, procedures and standards. The CPA may be engaged as follows: A copy of an engagement letter from the licensed CPA shall be submitted to the commission at least thirty days prior to offering services. The letter shall include an acknowledgement that the evaluation is being conducted under regulatory requirements of the commission and that a copy of the report will be forwarded to the commission; or

(b) A certified public accountant (CPA) which is licensed to perform such engagements by the state of Washington and is performing a review or audit of the licensee's financial statements. Licensees wishing to use this method of compliance shall receive written approval from the director or designee. In addition, the CPA's engagement letter shall acknowledge:

(i) The evaluation of internal controls is being conducted under regulatory requirements of the commission;

(ii) The service includes a written report on the adequacy of internal administrative and accounting control procedures utilized in the gaming operation and the degree to which the licensee complied with such; and

(iii) The commission is granted access to the accountant's work papers; or

(c) A licensed gambling service supplier that:

(i) Is independent in regard to the licensee being evaluated;

(ii) Demonstrates that all persons involved in performing the evaluation have adequate knowledge and experience in gambling, and commission rules, procedures and standards; and

(iii) Assures all work related to the evaluation of internal controls and the report to the commission is performed by or under the supervision of a licensed CPA meeting the requirements noted in (a) of this subsection;

(2) The evaluation, if conducted by other than commission staff, shall be completed annually, with the cycle beginning one year from the date of initial license approval: Provided, That an evaluation and report may not be required during any period that the licensee has satisfactorily completed a Phase II review, as set forth in WAC 230-40-803, if the review was completed within six months of the scheduled review period: Provided further, That the director may extend the date for evaluation completion if a request is made by the licensee;

(3) If a CPA under contract with a licensee or a licensed service supplier completes the evaluation, the report shall be submitted to the licensee and commission no later than thirty days following completion of the evaluation;

(4) The licensee shall take corrective actions on all deficiencies noted and a report of corrective actions forwarded to the commission no later than thirty days after notification: Provided, That the director may extend the time for correction if the licensee can demonstrate extenuating circumstances and that alternative controls are in place: Provided further, That the director may issue administrative charges on violations that are deemed serious in nature;

(5) The licensee is responsible for all cost of internal control evaluations and the commission shall be reimbursed for evaluations conducted by commission staff or a contractor hired by the commission. The licensee shall pay the contractor within thirty days after receiving a final bill for evaluation services. Failure to pay such bills shall be prima facie evidence of a lack of independence between the parties;

(6) Licensees meeting the following criteria shall have a complete internal control evaluation performed at least once every two years beginning two years from the date of initial license approval:

(a) The licensee waived the opportunity for Phase II status; and

(b) Card room gross receipts do not exceed fifty thousand dollars per month, annualized over a twelve-month period. The evaluation of gross receipts will be based upon no less than six months operating activity.

NEW SECTION

**WAC 230-40-823 House-banked card games—Financial audits required.** Each licensee operating house-banked card games with gross receipts in excess of five million dollars per year shall have their financial statements examined by a licensed, independent certified public accountant (CPA) for each fiscal year to evaluate the fairness of the presentation of the statements in conformity with generally accepted accounting principles. This examination shall be conducted in accordance with generally accepted auditing standards. A copy of the report and financial statements shall be submitted to the commission no later than one hundred twenty days after conclusion of the fiscal year. The director or designee may extend the date for audit completion if a request is made by the licensee.

NEW SECTION

**WAC 230-40-825 Closed circuit television system requirements and procedures.** All activities related to the operation of card games shall be closely monitored. Critical activities related to house-banked card games, player-supported jackpots and assessment of fees based on amounts wagered (rake method) shall be monitored by use of a closed circuit television system and a video recording. The following restrictions and operating procedures apply when a closed circuit television system is required.

(1) Each licensee shall install and maintain a closed circuit television system that meets at least the specifications set forth below:

(a) Light sensitive cameras with pan, tilt, and zoom (PTZ) capabilities where necessary to effectively and clandestinely monitor in detail and from various vantage points, including the following:

(i) The gaming conducted at each gaming table in the facility;

(ii) The activities in the pits;

(iii) Each table game area, with sufficient clarity to identify patrons and dealers;

(iv) Each table game surface, with sufficient coverage and clarity to simultaneously view the table bank and determine the configuration of wagers, card values and game outcome;

(v) The operations conducted at and in the cashier's cage: Provided, That for Class F licensee, camera coverage shall not be required of the cashier's cage unless the count is conducted at that location;

(vi) Entrance to the cashier's cage;

(vii) The count processes conducted in the count rooms, which processes shall be in conformity with commission rules;

(viii) The movement of cash, gaming chips, and drop boxes in the establishment;

(ix) The entrances and exits to the card room and the count rooms; and

(x) Such other areas as the commission designates.

(b) All video cameras must be installed in a manner that will prevent them from being readily obstructed, tampered with, or disabled by patrons or employees.

(c) Where a PTZ camera is used to observe card tables and gambling related activities, the camera must be placed behind a smoked dome, one-way mirror or similar materials that conceal the camera from view.

(d) Video recording units, with time and date insertion capabilities, for recording what is being viewed by any camera of the system. Recording and playback of video signals shall be at a rate of not less than twenty frames per second and shall not be recorded in a manner that will not allow playback on a standard consumer grade video cassette recorder. If multiple time and date generators are used, they shall be synchronized to the same time and date. The displayed date and time shall not significantly obstruct the recorded view. The following locations or activities shall be video taped:

(i) All gaming stations in operation or in which drop boxes are stored, to include video recording of all items noted in (a)(i) through (viii) of this subsection;

(ii) All entries to the count room;

(iii) The entire count process, including audio recording (audio recording only required for house-banked card room licensees);

(iv) Any unusual or suspicious activities;

(v) Movement of drop boxes between tables and the count room; and

(vi) Any other activity or location designated by commission staff.

(2) Lighting to provide sufficient clarity shall be present in all areas, including gaming tables and pits, where closed circuit camera coverage is required.

(3) Each video camera required by these rules shall be capable of having its picture displayed on a video monitor and recorded.

(4) The surveillance system must include a sufficient number of monitors to simultaneously display multiple card tables, the cashier's cage, count room activities, and views of any dedicated cameras.

(5) Multiplexing/quad recording devices may only be used for external surveillance, movement of drop boxes between tables and the count room, and on entrances and exits: Provided, That split screen devices may be utilized for areas not required to have surveillance coverage.

(6) The licensee shall maintain one or more surveillance rooms with the following minimum requirements:

(a) The surveillance room shall have controlled access, and be used solely by the employees of the surveillance department assigned to monitor activities: Provided, That this restriction does not apply to owners or approved supervisory or management personnel. Commission agents and law enforcement personnel shall be provided immediate access to the surveillance room upon request.

(b) A house-banked card game licensee shall ensure that a surveillance employee is present in the surveillance room and monitoring the activities of the operation, via the surveillance room equipment, at all times the card room is open to conduct gaming and during the count process as stated in WAC 230-40-885(4): Provided, That the licensee may allow the surveillance room to operate without staff for a period not to exceed thirty minutes per shift for the purpose of routine breaks. All surveillance employees shall have a demonstrated knowledge of the following:

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- (i) Operating surveillance systems;
- (ii) Rules of play and procedures for the games being played; and
- (iii) The overall procedures relating to the duties of all employees of a house-banked card room being monitored (dealers, shift managers, floor supervisors, cage personnel, and count team).

(c) Licensees that are licensed for five or fewer tables and operating under Phase I limits, shall not be required to maintain a staffed surveillance room.

(d) The licensee shall maintain a record of all surveillance activities in the surveillance room. The surveillance log shall be maintained by surveillance personnel and shall include, at a minimum, the following:

- (i) Date and time of surveillance;
- (ii) Person initiating surveillance;
- (iii) Reason for surveillance;
- (iv) Time of termination of surveillance;
- (v) Summary of the results of the surveillance; and
- (vi) A record of any equipment or camera malfunctions.

(e) A surveillance room sign-in log shall be maintained to document the time each surveillance employee monitors the card room. A surveillance room sign-in log shall be available for inspection at any time by commission staff or local law enforcement.

(7) Video and audio tapes shall be identified to denote the activity recorded and retained for a period necessary to afford commission staff or law enforcement personnel reasonable access. The following minimum retention periods apply to tapes:

(a) All tapes shall be retained for a minimum of seven days: Provided, That the seven-day retention period may be measured on a weekly and per shift basis as long as tapes are uniformly labeled by day of the week and shift;

(b) Tapes of evidentiary value shall be maintained as requested by commission staff;

(c) Tapes documenting jackpot payouts over three thousand dollars shall be retained for at least thirty days; and

(d) Commission staff may increase any of the times noted in this section by notifying the licensee.

#### NEW SECTION

**WAC 230-40-830 Cashier's cage—Requirements.** All cash, cash equivalents, and chips related to the operation of card games shall be closely controlled and records maintained documenting receipts and disbursements. Licensees shall maintain a cashier's function whose responsibility shall be to secure and account for all chips and monies in the card room portion of the premises. At a minimum the following restrictions and procedures apply:

(1) There shall be on or immediately adjacent to the gaming floor a physical structure known as the cashier's cage (cage) to house the cashiers and to serve as the central location for, at a minimum, the following:

(a) The custody of the cage inventory comprising currency, coin, patron checks, gaming chips, forms, documents and records normally associated with the operation of a cage;

(b) The approval of patron checks for the purpose of gaming;

(c) The receipt and distribution of gaming chips from the gaming table and the redemption of gaming chips from patrons. The purchase of gaming chips by patrons shall only occur at the gaming table; and

(d) Such other functions normally associated with the operation of a cage.

(2) The cage shall be designed, constructed and operated to provide maximum security and accountability for funds including, at a minimum, the following:

(a) An enclosed structure except for openings through which items such as gaming chips, checks, cash, records, and documents can be passed to service the public and gaming tables;

(b) Manually triggered silent alarm systems connected directly to the surveillance rooms of the closed circuit television system or an alarm monitoring agency;

(c) Access shall be through a locked door, which shall have closed circuit television coverage which is monitored by the surveillance department.

(3) Entry to the cage shall be limited to authorized personnel. The gaming operation department shall place on file with the accounting department the names of all persons authorized to enter the cage, those who possess the combination or the keys or who control the mechanism to open the locks securing the entrance to the cage, and those who possess the ability to operate the alarm systems.

(4) A log shall be maintained documenting all persons entering the cashier's cage. The log must contain the person's name, title, time entering and exiting, and date of entry.

(5) Licensees not offering house-banked card games shall not be required to meet the above requirements: Provided, That licensees shall maintain a system for securing and properly accounting for all gaming chips and monies.

#### NEW SECTION

**WAC 230-40-833 Cashier's bank and minimum bankroll.** All card room licensees with house-banked card games or player-supported jackpots shall maintain sufficient funds to meet all cash out and prize payout requirements.

(1) All assets for which the cashiers are responsible shall be maintained on an imprest basis. This requires funds to be replenished on a regular basis by exactly the amount of expenditures from the cage less the amount of funds added. Expenditures shall be reviewed by a supervisor of the accounting department before replenishment: Provided, That licensees demonstrating the ability to control cage activity can request commission staff approval to operate on a float basis as an alternative procedure.

(2) The licensee shall have sufficient cash on hand to redeem all chips and payout all prizes: Provided, That payments of prizes may be paid by check as long as sufficient funds are available on deposit in accordance with WAC 230-12-072 and 230-12-073.

(3) Failure to maintain funds to cash in chips, pay prizes, or redeem gaming related checks shall be prima facie evidence of fraud.



NEW SECTION

**WAC 230-40-835 Accounting controls for cashier's cage.** Licensees required to maintain a cashier's cage shall adhere to the following controls to ensure proper accountability for funds. The following restrictions and procedures apply to cashiers and the cage:

(1) Cashiers shall be responsible for at least the following functions:

(a) Receive cash, checks, and gaming chips from patrons for check consolidations, total or partial redemptions or substitutions;

(b) Receive gaming chips from patrons in exchange for cash;

(c) Receive traveler's checks and other cash equivalents (including money orders, certified checks, and cashier's checks) from patrons in exchange for currency or coin;

(d) Receive documentation with signatures thereon, required to be prepared for the effective segregation of functions in the cashier's cage;

(e) Receive from security department personnel, chips and coins removed from gaming tables in exchange for the issuance of a credit;

(f) Receive from security department members, requests for fills in exchange for the issuance of a fill slip and the disbursement of gaming chips;

(g) Receive cash or chips from the count room;

(h) At the end of each shift, the cashiers assigned to the outgoing shift shall count each cage inventory item and record on a cashier's count sheet the face value of each inventory item and the total of the opening and closing inventories. The total closing inventory shall be reconciled with the total opening inventory;

(i) Prepare the overall cage reconciliation and accounting records; and

(j) Perform such other functions as necessary to ensure proper accountability of funds and chips consistent with these standards.

(2) Signatures attesting to accuracy shall, at a minimum, be contained on the following:

(a) Cashier's count sheet; and

(b) Cage inventory countsheet, which includes the signatures of the cashiers assigned to the incoming and outgoing shifts.

(3) At the conclusion of the daily gaming activity, copies of the cashier's count sheet, cage inventory count sheet and related documentation shall be forwarded to the accounting department for agreement of opening and closing inventories, and agreement of amounts thereon to other forms, records and documentation for recording of transactions.

NEW SECTION

**WAC 230-40-840 Drop boxes—Requirements.** Licensees required to utilize drop boxes shall ensure they are constructed and controlled in a manner to provide security of contents. All card rooms operating house-banked card games or collecting fees utilizing the drop box as a collection method shall meet the following requirements and procedures:

(1) Each gaming table shall have attached to it a metal container known as a "drop box" into which all cash, duplicate fill slips and credit slips, request for fills and request for credits, and table inventory forms shall be deposited.

(2) Each drop box shall have the following:

(a) A lock securing the contents. The key to this lock shall be maintained and controlled by the accounting department;

(b) A separate lock securing the drop box to the gaming table. This lock shall be keyed differently from the lock securing the contents of the drop box. The key utilized to unlock this lock shall be maintained and controlled by the security department;

(c) An opening through which currency, coins, chips, forms, records and documents can be inserted into the drop box;

(d) Permanently imprinted or impressed thereon and clearly visible, a number corresponding to a permanent number on the gaming table to which it is attached and a marking to indicate the game. The shift shall also be included if drop boxes are removed from tables more than once during an operating day: Provided, That emergency drop boxes may be maintained without such number or marking, if the word "emergency" is permanently imprinted or impressed thereon, and when put into use, are temporarily marked with the number of the gaming table and identification of the game and shift.

(3) All drop boxes removed from the gaming tables shall be transported directly to the count room and secured by one security department member and one employee of the gaming operation department: Provided, That licensees not required to maintain a count room shall transport drop boxes directly to the count area using the supervisor or the supervisor's designee for the transport.

(4) All drop boxes not attached to a gaming table, shall be stored in the count room in an enclosed storage cabinet or trolley and secured in such cabinet or trolley by two separately keyed locks. The key to one lock shall be maintained and controlled by the security department and the key to the other lock shall be maintained and controlled by the gaming operation department.

(5) Drop boxes, when not in use during a shift, may be stored on the gaming tables if licensed security personnel are present in the gaming area at all times drop boxes are stored on the gaming tables and the entire area is covered by taped surveillance. If adequate security is not provided during this time, the drop boxes shall be stored as required in subsection (4) of this section.

NEW SECTION

**WAC 230-40-845 Procedures for exchange of checks submitted by gaming patrons at cashier's cage.** In addition to the requirements set forth in WAC 230-12-053, checks submitted to the cashier's cage are subject to the following restrictions and procedures:

(1) All checks sought to be exchanged at the cashiers' cage shall be presented directly to the cashier who shall:

(a) Restrictively endorse the check "for deposit only" to the licensee's bank account;

- (b) Initial the check;
- (c) Date and time stamp the check;
- (d) Verify that the patron is not listed on the returned check log;

(e) Immediately exchange the check for currency and coin in an amount equal to the amount for which the check is drawn less any applicable fees; and

- (f) Forward all patron checks to the main bank cashier.

(2) Prior to acceptance of a traveler's check from a patron, the cashier shall:

(a) Require the patron to countersign the traveler's check in his or her presence;

(b) Compare the countersignature with the original signature on the traveler's check;

(c) Examine the traveler's check for any other signs of tampering, forgery or alteration; and

(d) Perform any other procedures that the issuer of the traveler's check requires in order to indemnify the acceptor against loss.

(3) Prior to the acceptance of any check from a patron, the cashier shall examine that patron's identification to confirm the patron's identity.

(4) All checks received shall be deposited in the licensee's bank account within two banking days after receipt: Provided, That checks deposited within two days to an armored car service shall meet this requirement.

(5) All checks dishonored by a bank (returned checks) shall be returned directly to, and controlled by, accounting department employees: Provided, That if a collection agency is used which maintains dishonored checks, a photocopy of the check shall be sufficient.

(6) Records of all returned checks shall be maintained by accounting department employees and shall be available to cashiers. Such records shall include, at a minimum, the following:

- (a) The date of the check;
- (b) The name and address of the drawer of the check;
- (c) The amount of the check;
- (d) The date(s) the check was dishonored;
- (e) The date(s) and amount(s) of any collections received on the check after being returned by a bank.

(7) If a check is dishonored, the name of the person who submitted the check shall be kept in a log, and available to the cashier. Such person shall be prohibited from submitting additional checks until the amount owed is paid in full: Provided, That a check dishonored by a bank may be immediately redeposited if there is sufficient reason to believe the check will be honored the second time.

#### NEW SECTION

**WAC 230-40-850 Procedures for purchasing gaming chips.** The purchase of gaming chips by patrons shall be conducted in a manner to ensure proper accountability of chips and cash. The following restrictions and procedures apply:

(1) Gaming chips shall only be purchased at the gaming table;

(2) The cash shall be spread on the top of the gaming table by the dealer in a manner that allows the patron, floor supervisor, and surveillance a full view of the transaction;

(3) The amount of cash shall be announced by the dealer accepting it in a tone of voice to be heard by the patron who presented the cash and the floor supervisor specifically assigned to the gaming table. All cash changes of one hundred dollars or more shall be verified by the supervisor;

(4) Prior to giving gaming chips to the patron, the dealer shall prove each denomination of chips in a manner that discloses the number of chips to the patron, floor supervisor, and surveillance. Procedures for proving chips shall be included in the licensee's approved system of internal controls; and

(5) Immediately after gaming chips, equivalent to the cash amount paid by the patron, have been given to the patron, the cash shall be taken from the top of the gaming table and placed by the dealer into the drop box attached to the gaming table.

#### NEW SECTION

**WAC 230-40-855 Acceptance of tips from patrons for house-banked activities.** Licensees may allow selected employees to accept tips from patrons. If allowed, tips shall be controlled in a manner to ensure they are only received by authorized persons, properly accounted for, and maintained separate from all other gaming funds. The following restrictions and procedures apply:

(1) No employee directly concerned with management, supervision, accounting, security, or surveillance shall solicit or accept any tip from any player or patron: Provided, That cage cashiers shall be allowed to accept tips.

(2) Each licensee shall establish procedures necessary to ensure that the acceptance of tips by dealers is observed by the floor supervisor and surveillance. Procedures shall include an overt display of tips received, such as tapping the table with the tip prior to placing it in the tip container.

(3) Tips to the cashier shall be deposited directly into the tip container by the patron. Cashier tip containers shall be located outside the cage enclosure.

(4) Tips received shall be retained by employees or pooled among employees in such manner as determined by the licensee.

(5) Licensees shall establish and implement procedures for the proper accounting of tips received by authorized card room employees. The procedures shall be fully documented in the licensee's internal controls and shall describe in detail any methods used to allocate tips. Accounting and recording of tip income shall be in sufficient detail to meet federal income tax requirements.

#### NEW SECTION

**WAC 230-40-860 Table inventories and procedures for opening tables for house-banked card games.** Procedures shall be established to ensure proper accountability of gaming chips and coins stored at gaming tables and for beginning play at such tables. The following restrictions and procedures apply:

(1) Whenever a gaming table is opened for gaming, operations shall commence with an amount of gaming chips and coins to be known as the "table inventory" and the licensee shall not cause or permit gaming chips or coins to be added to

or removed from such table inventory during the gaming day except:

- (a) In exchange for cash from patrons;
- (b) In payment of winning wagers and collection of losing wagers made at such gaming table;
- (c) In exchange for gaming chips received from a patron having an equal aggregate face value; and
- (d) In conformity with procedures set forth in WAC 230-40-865 and 230-40-870.

(2) Each table inventory and the table inventory slip prepared in conformity with the procedures set forth in WAC 230-40-875 shall be stored during nongaming hours in a separate locked, clear container which shall be clearly marked on the outside with the game and the gaming table number to which it corresponds. The information on the table inventory slip shall be visible from the outside of the container. All containers shall be stored in the cashier's cage during nongaming hours: Provided, That containers may be secured at the gaming table if under taped surveillance.

(3) The keys to table inventory containers shall be maintained and controlled by the gaming operation department in a secure place and shall at no time be made accessible to any cashier's cage personnel or to any person responsible for transporting such table inventories to or from the gaming tables.

(4) Licensees shall abide by the following procedures when opening gaming tables for play:

(a) The locked container securing the table inventory and the table inventory slip shall be unlocked by the gaming operation supervisor assigned to such table;

(b) A dealer assigned to the gaming table shall prove the contents of the container in the presence of the gaming operation supervisor assigned to such table and shall compare the count to the "opener," as defined in WAC 230-40-875, removed from the container. The procedures used to prove the chip and coin inventory shall be set forth in the licensee's internal controls;

(c) Signatures attesting to the accuracy of the information on the opener shall be placed on such "opener" by the dealer assigned to the table and the gaming operation supervisor that observed the dealer count the contents of the container;

(d) Any discrepancy between the amount of gaming chips and coins counted and the amount of the gaming chips and coins recorded on the "opener," shall be immediately reported to the gaming operation manager, assistant gaming operation manager, or gaming operation shift manager in charge at such time. The manager in charge shall complete the notification of error slip, which will be verified by security and transported to accounting or the cashier's cage. Accounting will maintain a copy in the log containing the notification of error slips. The licensee shall notify commission staff within twenty-four hours of errors of two hundred dollars or more or if there is a pattern relating to regular short-ages;

(e) After the count of the contents of the container and the signing of the "opener," such slip shall be immediately deposited in the drop box attached to the gaming table by the dealer.

## NEW SECTION

**WAC 230-40-865 Procedure for distributing gaming chips and coins to house-banked gaming tables—Requests and fills.** Gaming chips and coins shall only be distributed to gaming tables with adequate security and in a manner that ensures proper control and accountability. The following restrictions and procedures apply:

(1) Each "request for fill" and "fill slip" shall be serially prenumbered forms, which provide an original and duplicate copies as necessary: Provided, That the director may authorize use of a computer based accounting system which includes a nonrepeating sequential numbering system that is consistent with the controls and safeguards of the manual system. These forms shall be controlled in the following manner:

(a) Each series of requests for fill and fill slips received by a licensee shall be controlled and accounted for separately;

(b) Request for fills shall be secured in such a manner that only a gaming operations supervisor has access;

(c) Fill slips shall be secured by the cashier's cage;

(d) These forms shall be used in sequential order and all forms accounted for; and

(e) The preparer shall void forms that have errors by marking "VOID" on both the original and duplicate copies and sign the form.

(2) A "request for fill" shall be prepared by the gaming operation supervisor to authorize the cage to prepare a "fill slip" for the distribution of chips and coins to gaming tables. The original and duplicate of the request for fill shall include the following entries:

(a) The date, time, and shift of preparation;

(b) The denomination of gaming chips or coins to be distributed to the gaming tables;

(c) The total amount of each denomination of gaming chips or coins to be distributed to the gaming tables;

(d) The game and table number to which the gaming chips or coins are to be distributed;

(e) The signature of the gaming operation supervisor; and

(f) The signature of the security department employee that distributed the chips and coins.

(3) After preparation of the request for fill, the original of such request shall be transported directly to the cashier's cage by security.

(4) The duplicate copy of the request for fill shall be placed by the dealer or floor supervisor in public view on the gaming table to which the gaming chips or coins are to be received. Such duplicate copy shall not be removed until the chips and coins are received, at which time the request for fill and fill slips are deposited in the drop box.

(5) A fill slip shall be prepared by a cashier whenever gaming chips or coins are distributed to the gaming tables from the cashier's cage. The following procedures and requirements shall be observed with regard to fill slips:

(a) Each series of fill slips shall be in triplicate form to be kept in a locked dispenser that will permit an individual fill slip in the series and its copies to be written upon simultaneously while still located in the dispenser, and that will discharge the original and duplicate while the triplicate remains

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in a continuous, unbroken form in the dispenser: Provided, That if a computer system is used, which includes a nonrepeating sequential numbering system, the controls and safeguards of the manual system must be present; and

(b) Access to the triplicate copy of the form shall be maintained and controlled at all times by an accounting department employee responsible for controlling and accounting for the unused supply of fill slips, placing fill slips in the dispensers, and removing from the dispensers, each day, the triplicate copies remaining therein.

(6) On the original, duplicate, and triplicate copies of the fill slip, the preparer shall record, at a minimum, the following information:

(a) The denomination of the gaming chips or coins being distributed;

(b) The total amount of the gaming chips or coins being distributed;

(c) The total amount of all denominations of gaming chips or coins being distributed;

(d) The game and table number to which the gaming chips or coins are being distributed;

(e) The date and shift during which the distribution of gaming chips or coins occurs; and

(f) The signature of the preparer.

(7) Upon preparation, the time of preparation of the fill slip shall be recorded, at a minimum, on the original and the duplicate.

(8) All gaming chips or coins distributed to the gaming tables from the cashier's cage shall be transported directly by a security department employee. This employee shall verify the request for fill to the amount of the fill slip and sign the original of the request for fill, which is maintained at the cashier's cage, before transporting the gaming chips or coins and the original and duplicate of the fill slip for signature.

(9) Signatures attesting to the accuracy of the information contained on the original and duplicate of the fill slips shall, at a minimum, be those of the following personnel at the following times:

(a) The cashier upon preparation;

(b) The security department employee transporting the gaming chips or coins to the gaming table upon receipt from the cashier of gaming chips or coins;

(c) The dealer assigned to the gaming table upon receipt; and

(d) The gaming operation supervisor assigned to the gaming table upon receipt of the gaming chips or coins at such table.

(10) Upon meeting the signature requirements, the security department employee that transported the gaming chips or coins and the original and duplicate copies of the fill slip to the table, shall observe the following:

(a) The dealer shall immediately place the duplicate fill slip and duplicate request for fill in the drop box attached to the gaming table to which the gaming chips or coins were transported; and

(b) The security department employee shall then return the original fill slip to the cashier's cage where the original fill slip and request for fill shall be maintained together and controlled by cage employees.

(11) The original and duplicate "VOID" fill slips, the original request for fill, and the original fill slip shall be forwarded as follows:

(a) The count team, as described in WAC 230-40-885(2), for agreement with the duplicate copy of the fill slip and duplicate copy of the request for fill removed from the drop box after which the original and duplicate copy of the request for fill and the original and duplicate copy of the fill slip shall be forwarded to the accounting department for agreement, on a daily basis, with the triplicate; or

(b) The accounting department for agreement, on a daily basis, with the duplicate fill slip and duplicate copy of the request for fill removed from the drop box and the triplicate.

(12) Transfers of gaming chips from one gaming table to another gaming table is prohibited. All transfers of gaming chips shall be to the cashier's cage.

#### NEW SECTION

**WAC 230-40-870 Procedure for removing gaming chips and coins from house-banked gaming tables—Requests and credits.** All transfers of gaming chips and coins shall be closely controlled and documented in a manner that ensures accountability. Gaming chips and coins shall only be removed from gaming tables with adequate security. The following restrictions and procedures apply:

(1) Each "request for credit" and "credit slip" shall be serially prenumbered forms, which provide an original and duplicate copies as necessary: Provided, That the director may authorize use of a computer based accounting system which includes a nonrepeating sequential numbering system that is consistent with the controls and safeguards of the manual system. These forms shall be controlled in the following manner:

(a) Each series of requests for credit and credit slips received by a licensee shall be controlled and accounted for separately;

(b) Request for credits shall be secured in such a manner that only a gaming operations supervisor has access;

(c) Credit slips shall be secured by the cashier's cage;

(d) These forms shall be used in sequential order and all forms accounted for; and

(e) The preparer shall void forms that have errors by marking "VOID" on both the original and duplicate copies and sign the form.

(2) A "request for credit" shall be prepared by the gaming operation supervisor to authorize the cage to prepare a "credit slip" for the removal of gaming chips and coins to the cashier's cage. The original and duplicate of the request for credit shall include the following entries:

(a) The date, time and shift of preparation;

(b) The denomination of gaming chips or coins to be removed from the gaming table;

(c) The total amount of each denomination of gaming chips or coins to be removed from the gaming table;

(d) The game and table number from which the gaming chips or coins are to be removed; and

(e) The signature of the gaming operation supervisor and dealer assigned to the gaming table from which gaming chips or coins are to be removed.

(3) Immediately upon preparation of a request for credit and transfer of gaming chips or coins to a security department employee, a gaming operation supervisor shall obtain on the duplicate copy of the request for credit the signature of the security department member to whom the gaming chips and coins were transferred. The dealer shall place the duplicate copy in public view on the gaming table from which the gaming chips or coins were removed. Such request for credit shall not be removed until a credit slip is received from the cashier's cage at which time the request for credit and credit slip are deposited in the drop box.

(4) The original of the request for credit and the gaming chips or coins removed from the gaming table shall be transported directly to the cashier's cage by the security department employee.

(5) A credit slip shall be prepared by the cashier whenever gaming chips or coins are removed from the gaming tables to the cashier's cage. The following procedures and requirements shall be observed with regard to credit slips:

(a) Each series of credit slips shall be a three-part form and shall be inserted in a locked dispenser that will permit an individual slip in the series and its copies to be written upon simultaneously while still locked in the dispenser, and that will discharge the original and duplicate while the triplicate remains in a continuous, unbroken form in the dispenser: Provided, That if a computer system is used, which includes a nonrepeating sequential numbering system, the controls and safeguards of the manual system must be present; and

(b) Access to the triplicate copy shall be maintained and controlled at all times by an accounting department employee responsible for controlling and accounting for the unused supply of credit slips, placing credit slips in the dispensers, and removing from the dispensers, each day, the triplicates remaining therein.

(6) On the original, duplicate and triplicate copies of a credit slip, the preparer shall record, at a minimum, the following information:

(a) The denomination of the gaming chips or coins removed from the gaming table to the cashier's cage;

(b) The total amount of each denomination of gaming chips or coins removed from the gaming table to the cashier's cage;

(c) The total amount of all denominations of gaming chips or coins removed from the gaming table to the cashier's cage;

(d) The game and table number from which the gaming chips or coins were removed;

(e) The date and shift during which the removal of gaming chips or coins occurs; and

(f) The signature of the preparer.

(7) Upon preparation, the time of preparation of the credit slip shall be recorded, at a minimum, on the original and duplicate copy.

(8) Signatures attesting to the accuracy of the information contained on the original and the duplicate copy of a credit slip shall be, at a minimum, the following personnel at the following times:

(a) The cage cashier upon preparation;

(b) The security department employee transporting the gaming chips or coins to the cashier's cage upon presentation to the cashier;

(c) The dealer assigned to the gaming table upon receipt at such table from the security department employee; and

(d) The gaming operation supervisor assigned to the gaming table upon receipt at such table.

(9) Upon meeting the signature requirements, the security department employee transporting the original and duplicate copies of the credit slip to the gaming table, shall observe the following:

(a) The dealer shall immediately place the duplicate copies of the credit slip and request for credit in the drop box attached to the gaming table from which the gaming chips or coins are removed; and

(b) The security department employee shall expeditiously return the original credit slip to the cashier's cage where the original of the credit slip and request for credit shall be maintained together, and controlled by cage employees.

(10) The original and duplicate copies of "VOID" credit slips, and the original request for credit and credit slip shall be forwarded to:

(a) The count team, as described in WAC 230-40-885(2), for agreement with the duplicate credit slip and the duplicate request for credit removed from the drop box, after which the request for credit and the original and duplicate credit slip shall be forwarded to the accounting department for agreement, on a daily basis, with the triplicate; or

(b) The accounting department for agreement, on a daily basis, with the duplicate copies of the credit slip and request for credit removed from the drop box and the triplicate.

#### NEW SECTION

**WAC 230-40-875 Procedures for closing house-banked gaming tables.** Procedures shall be followed for closing gaming tables that ensure proper accountability of gaming chips and coins. The following restrictions and procedures apply:

(1) Whenever the gaming activity at each gaming table is concluded for the day, the gaming chips and coins shall be counted by the dealer assigned to the gaming table and observed by a gaming operation supervisor. The entire count and closure process shall be monitored and taped by the surveillance department.

(2) The gaming chips and coins counted shall be recorded on a table inventory slip by the gaming operation supervisor assigned to the gaming table.

(3) Table inventory slips shall be three-part serially pre-numbered forms and on the original of the slip (closer), the duplicate of the slip (opener), and on the triplicate, which is maintained and controlled by security, the gaming operation supervisor shall record the following:

(a) The date and identification of the shift ended;

(b) The game and table number;

(c) The total value of each denomination of gaming chips and coins remaining at the tables; and

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(d) The total value of all denominations of gaming chips and coins remaining at the gaming tables.

(4) Signatures attesting to the accuracy of the information recorded on the table inventory slips at the time of closing the gaming tables shall be of the dealer and the gaming operation supervisor assigned to the gaming table who observed the dealer count the contents of the table inventory.

(5) Upon meeting the signature requirements:

(a) The closer shall be deposited in a drop box attached to the gaming table immediately prior to the closing of the table;

(b) The opener and the gaming chips and coins remaining at the table shall be placed in a clear container provided for that purpose after which the container shall be locked; and

(c) The triplicate copy of the table inventory slip shall be forwarded to the accounting department by a security department employee.

(6) At the end of each gaming day, if the locked containers are transported to the cashier's cage, a cage cashier shall determine that all locked containers have been returned to the cage and adequately secured or, if the locked containers are secured to the gaming table, a gaming operation supervisor shall account for all the locked containers.

(7) In the event drop boxes are removed from gaming tables at other than the close of the gaming day, they shall be removed at a shift change. A table inventory slip shall be prepared as required above with the incoming and outgoing supervisor verifying the inventory and signing.

#### NEW SECTION

**WAC 230-40-880 Count room—Requirements.** All card room licensees offering house-banked card games or utilizing drop boxes for the collection of game fees or wagers shall be required to maintain a secured area for the counting of gaming chips, coin, and currency. The following requirements, restrictions, and procedures apply:

(1) There shall be a room specifically designated for counting the contents of drop boxes, which shall be known as the "count room": Provided, That licensees not offering house-banked card games shall not be required to maintain a count room for counting the contents of drop boxes if they have another secure location and they meet all other commission requirements for surveillance and counting procedures.

(2) The count room shall be a fully enclosed room with only one entry designed and constructed to provide maximum security for the materials housed therein and for the activities conducted therein, to include at a minimum, the following:

(a) A door equipped with at least one lock securing the interior of the count room, the key to which shall be maintained and controlled by the gaming operation department or an employee of the security department;

(b) The gaming operation department or security department shall establish a sign-out procedure for all keys removed from the security department; and

(c) An alarm device connected to the entrance of the count room in such a manner as to cause a signaling to the surveillance employees of the closed circuit television system whenever the door to the count room is opened.

(3) The following shall be located within the count room:

(a) A table constructed of clear glass or similar material with a base that does not obstruct viewing for the emptying, counting, and recording of the contents of the drop boxes which shall be known as the "count";

(b) Closed circuit television cameras and microphones that are capable of, but not limited to, the following:

(i) Effective and detailed video and audio monitoring of the entire count process; and

(ii) Effective, detailed video-monitoring of the count room and all contents, including storage cabinets or trolleys used to store drop boxes.

(c) The licensee shall post a sign within the count room or at the entrance disclosing that audio recordings within the count room are being conducted at all times.

(4) A count room sign-in log shall be maintained by the licensee as prescribed by the commission.

#### NEW SECTION

**WAC 230-40-885 Counting and recording contents of drop boxes—Procedures.** The contents of drop boxes shall be counted and recorded in a manner that ensures the proper accountability of all gaming chips, coins, and currency. The following restrictions and procedures apply:

(1) The gaming operation department shall notify the surveillance department whenever the contents of drop boxes removed from gaming tables are to be counted and recorded, which, at a minimum, shall be once each gaming day.

(2) The opening, counting and recording of the contents of drop boxes shall be performed in the presence of and by those employees assigned by the gaming operation department for the conduct of the count. The count team must consist of three employees who shall not be in a position to perpetrate or conceal errors or irregularities in the normal course of his or her duties. Anyone both recording transactions and having access to the relevant assets is in a position to perpetrate errors or irregularities.

(3) Immediately prior to the opening of the drop boxes, the doors to the count room shall be securely locked and except as otherwise authorized, no person shall be permitted to enter or leave the count room, except during a normal work break or in an emergency, until the entire counting, recording, and verification process is completed.

(4) Immediately prior to the commencement of the count, one count team member shall notify the person assigned to the closed circuit television surveillance room in the establishment that the count is about to begin, after which such person shall make a video and audio recording of the entire counting process.

(5) Contents of drop boxes shall not be mixed prior to counting and recording of each drop box. Procedures and requirements for conducting the count shall be the following:

(a) As each drop box is placed on the count table, one count team member shall announce, in a tone of voice to be heard by all persons present and to be recorded by the audio recording device, the game, table number, and shift marked thereon;

(b) The contents of each drop box shall be emptied and counted separately on the count table;

(c) Immediately after the contents of a drop box are emptied onto the count table, the inside of the drop box shall be held up to the full view of a closed circuit television camera, and shall be shown to at least one other count team member to confirm that all contents of the drop box have been removed, after which the drop box shall be locked and placed in the storage area for drop boxes;

(d) The contents of each drop box shall be segregated by a count team member into separate stacks on the count table by denominations of coin and currency and by type of form, record or document;

(e) Each denomination of coin and currency shall be counted separately by at least two count team members who shall place individual bills and coins of the same denomination on the count table in full view of the closed circuit television cameras, and such count shall be observed and the accuracy confirmed orally or in writing, by at least one other count team member;

(f) As the contents of each drop box is counted, one count team member shall record or verify on a master game report, by game, table number, and shift, the following information:

(i) The total amount of currency and coin counted, also known as the "drop";

(ii) The amount of the opener;

(iii) The amount of the closer;

(iv) The serial number and amount of each fill slip;

(v) The total amount of all fill slips;

(vi) The serial number and amount of each credit slip;

(vii) The total amount of all credit slips; and

(viii) The game win or loss.

(g) After the contents of each drop box have been counted and recorded, one member of the count team shall record by game and shift, on the master game report, the total amounts of currency and coin, table inventory slips, fill slips and credit slips counted, and win or loss, together with such additional information as may be required on the master game report by the licensee.

(h) Notwithstanding the requirements of (f) and (g) of this subsection, if the licensee's system of accounting and internal controls provides for the recording on the master game report of fill slips, credit slips, and table inventory slips by cage cashiers prior to the commencement of the count, a count team member shall compare the serial numbers and totals of the amounts recorded thereon to the fill slips, credit slips, and table inventory slips removed from the drop boxes;

(i) Notwithstanding the requirements of (f) and (g) of this subsection, if the licensee's system of accounting and internal controls provides for the count team functions to be comprised only of counting and recording currency, coin, and credits, accounting department employees shall perform all other counting, recording and comparing duties herein; and

(j) After completion and verification of the master game report, each count team member shall sign the report attesting to the accuracy of the information recorded thereon.

(6) Procedures and requirements at the conclusion of the count for each gaming shift shall be the following:

(a) All cash removed from each drop box after the initial count shall be presented in the count room by a count team member to a cashier who, prior to having access to the infor-

mation recorded on the master game report and in the presence of the count team, shall recount, either manually or mechanically, the cash received;

(b) The top copy of the master game report, after signing, and the request for fills, the fill slips, the request for credits, the credit slips, and the table inventory slips removed from drop boxes, shall be transported directly to the accounting department and shall not be available to any cashier's cage personnel; and

(c) If the licensee's system of accounting and internal controls does not provide for the forwarding from the cashier's cage of the duplicate of the fill slips, credit slips, request for credits, request for fills, such documents recorded or to be recorded on the master game report shall be transported from the count room directly to the accounting department.

(7) The originals and copies of the master game report, request for fills, fill slips, request for credits, credit slips and table inventory slips shall on a daily basis, in the accounting department be:

(a) Compared for agreement with each other, on a test basis, by persons with no recording responsibilities and, if applicable, to triplicates or stored data;

(b) Reviewed for the appropriate number and propriety of signatures on a test basis;

(c) Accounted for by series numbers, if applicable;

(d) Tested for proper calculation, summarization, and recording;

(e) Subsequently recorded; and

(f) Maintained and controlled by the accounting department.

(8) Card rooms not operating house-banked card games shall not have to meet the requirements above: Provided, That the following requirements shall be met:

(a) The count shall occur at a specific time that has been reported to commission staff;

(b) All fees shall be counted at least once each operating day;

(c) The count shall be made by at least two licensed employees of the card room who shall record the amount on the count slip for each drop box;

(d) The surveillance requirements of WAC 230-40-825 shall be met; and

(e) An entry shall be made in the daily card room record for each table and each type of fee collected at a table. Count slips for each table shall be retained with the daily records.

#### NEW SECTION

**WAC 230-40-890 Signatures—Requirements.** Each transfer of cash, coins, or chips shall be documented and verified by signatures of individuals responsible for applicable records. A record of authorized signatures shall be maintained for all employees of a house-banked card room authorized to approve transfers of cash, coin, or chips. The following restrictions and operating procedures apply to licensees conducting house-banked card games:

(1) Signatures shall:

(a) Be, at a minimum, the signer's first initial and last name, i.e., "B. Smith";

PROPOSED



(b) Be immediately adjacent to, or above, the clearly printed or preprinted title of the signer and his or her employee number; and

(c) Signify that the signer has prepared forms, records, and documents, and/or is authorized to a sufficient extent to attest to the accuracy of the information recorded thereon, in conformity with these standards and the licensee's system of accounting and internal control.

(2) The licensee shall ensure that signature cards are completed for each person who signs or initials forms, records and documents, and shall include samples of signatures and initials of signers. Such signature records shall be prepared in the presence of a member of the accounting department who shall verify the employee's identity by review of a picture identification card. Completed cards shall be maintained in a dated signature card file, sorted by department and listed alphabetically by name. The signature records shall be adjusted on a timely basis to reflect changes of personnel, and must be retained for a period of at least one year after employment terminates.

(3) Signature cards shall be securely stored in the accounting department. A copy of each signature card shall be maintained in the cashier's cage and be used by cage personnel to verify applicable signatures.

#### NEW SECTION

**WAC 230-40-895 Key control requirements and procedures.** All activities related to the operation of house-banked card games shall be closely monitored and controlled. The following restrictions and operating procedures shall apply for control of card room keys to restrict access to areas by unauthorized card room employees.

(1) Each licensee shall install and maintain key control boxes that meet at least the specifications set forth below:

(a) Constructed of metal with a minimum of one keylock mechanism;

(b) Be attached to a permanent structure without visibility of hardware used to attach the key box;

(c) Be tamper proof;

(d) Have keys stored therein to be easily identifiable, labeled, and displayed individually in numeric or alphabetic order;

(e) The physical location of key control boxes may be determined by each licensee. The location shall not permit an individual to gain access to a restricted area that he/she would otherwise not be allowed to enter. If key boxes are located in areas where unauthorized individuals have access, that person may only have custody of the key and open the key box in the presence of the key custodian; or while under camera coverage.

(2) Individual key control boxes shall be maintained by at least three departments including gaming operations, accounting, and security/surveillance. Access to key control boxes shall be limited to the licensed card room employee(s) responsible for overall supervision or management of the operation for which the box is maintained. Keys shall be controlled in the following manner:

(a) Keys included in the key control box maintained by the gaming operations department shall include:

(i) Key to each pit podium;

(ii) Key(s) to drawers and other locking cabinets located in each pit podium;

(iii) Key to remove the clear plastic cover from the container used to store gaming chips and secured to the gaming tables;

(iv) Key to the second lock on the enclosed storage cabinet or trolley used to store or transport all drop boxes removed from the gaming tables;

(v) Key to all upper tier and lower tier jackpot payout boxes included with authorized card games;

(vi) Key to all electrical control boxes used to maintain authorized card games;

(vii) Other keys included in the licensee's internal controls and approved by commission staff.

(b) Keys included in the key control box maintained by security/surveillance shall include:

(i) Key to the lock used to secure the interior of the count room;

(ii) Key utilized to unlock the drop boxes from the gaming tables;

(iii) Key to the first lock on the enclosed storage cabinet or trolley used to store or transport all drop boxes removed from the gaming tables to the count room;

(iv) Key to the storage cabinet(s) or other secure facility used to store the card inventory including decks which have not been placed into play and decks removed from play and waiting to be destroyed;

(v) Key to the room used for clandestine surveillance;

(vi) Key to the storage cabinet(s) or locker(s) used to maintain tapes of evidentiary value or tapes documenting details of jackpot payouts;

(vii) Key to main entry or access door of the card room;

(viii) Other keys included in the licensee's internal controls and approved by commission staff.

(c) Keys included in the key control box maintained by the accounting department shall include:

(i) Key to the lock securing the contents of the drop boxes;

(ii) Key to the rear of the locked dispenser used to store the triplicate of the fill/credit slips in a continuous, unbroken form;

(iii) Key to the door to the cashier's cage;

(iv) Key to reset the lock to the drop boxes;

(v) Keys included in the licensee's internal controls and approved by commission staff;

(vi) Keys maintained by the cashier's cage including:

(A) Key(s) to each cashier's window drawer;

(B) Key to the chip drawer or fill bank;

(C) Key to the vault or safe;

(D) Key to the door to the cashier's cage;

(E) Key to the front of the locked dispenser used to store the triplicate of the fill/credit slips in continuous, unbroken form;

(F) Other keys included in the licensee's internal controls and approved by commission staff;

(G) Key(s) to the dealer tip boxes.

(d) A master key control box may be maintained with access strictly limited to the owner(s) or chief operating officer responsible for exercising the overall management or



authority over all the operations of the card room and may include:

- (i) All spare or extra keys for the areas noted above.
- (ii) Other keys included in the licensee's internal controls and approved by commission staff.
- (3) Each licensee shall maintain for each key control box, a key control log used to record the issuance of and return of all keys used to control the restricted access areas by card room employees identified. The key control log shall be maintained in the format prescribed by the commission.
- (4) Keys to secure the contents of each key control box required above shall be strictly controlled as follows.
  - (a) There shall be one key for each key control box which shall be controlled by the manager of the department for which the key control box is designated. This key shall be distributed to the manager or supervisor in charge and maintained in their possession when gaming is being conducted.
  - (b) Keys to each key control box will be maintained in a secure manner as approved by commission staff and documented in the licensee's written internal controls.
  - (c) All spare or duplicate keys to the key control boxes identified above will be maintained in the master key control box and be controlled by the owner(s).
  - (5) Licensees may utilize electronic key control systems, if reviewed and approved in writing by the director or the director's designee.

#### NEW SECTION

**WAC 230-40-897 Card game promotions—Procedures—Restrictions.** All promotions or schemes which are directly associated with card games or which affect the internal controls of the gaming operation must be submitted and approved by commission staff prior to implementation. The following procedures and restrictions apply:

- (1) All players must have an equal opportunity to participate;
- (2) The value of promotional items cannot exceed fifty dollars per person;
- (3) Only one promotion may be used for each game at one time; and
- (4) Detailed records must be maintained ensuring accountability, including any coupons redeemed.

#### NEW SECTION

**WAC 230-40-550 Incompatible functions defined.** Incompatible functions for accounting and internal control purposes are functions, duties, or responsibilities that place any person or department in a position to both perpetrate and conceal errors or irregularities in the normal course of his or her duties. Anyone both recording transactions and having access to the relevant assets is in a position to perpetrate errors or irregularities. For example, an employee that writes checks should not reconcile the bank account; or an employee that transports funds should not have access to keys for locks securing such funds or to surveillance tapes recording the transaction.

#### NEW SECTION

**WAC 230-40-552 Cash equivalent defined.** Cash equivalent is a treasury check, personal check, traveler's check, wire transfer of funds, money order, certified check, cashier's check, a check drawn on the licensee's account payable to the patron or to the licensee, or a voucher recording cash drawn against a credit card or debit card.

#### NEW SECTION

**WAC 230-40-554 Chief executive officer or chief operations officer defined.** The chief executive officer or chief operations officer is the executive who has been designated by the owner, partners, or board of directors as the individual with overall responsibility for the business licensed to conduct card games.

#### NEW SECTION

**WAC 230-40-556 Gaming operations department manager defined.** A gaming operations department manager is a licensed card room employee who has been designated by the chief executive officer or chief operating officer as responsible for management of all card room operations.

#### NEW SECTION

**WAC 230-40-558 Shift manager defined.** A shift manager is a licensed card room employee who shall be responsible for all card room operations during a given shift. The shift manager reports to the gaming operations department manager and shall be the direct supervisor of the floor supervisor.

#### NEW SECTION

**WAC 230-40-560 Floor supervisor defined.** A floor supervisor is a licensed card room employee who shall be responsible for directly supervising a limited number of card games and the dealers assigned to those games within a designated area known as the "pit."

#### NEW SECTION

**WAC 230-40-562 Dealer defined.** A dealer is a licensed card room employee who is responsible for conducting card games and deals cards, collects and pays off players' bets, and collects fees. The dealer shall also be responsible for signing forms as required.

#### NEW SECTION

**WAC 230-02-109 Net win defined.** "Net win" means gross wagers received by a licensee from the operation of house-banked card games or fund-raising events, less the amount paid to players for winning wagers, accrual of prizes for progressive jackpot contests, and repayment of amounts used to seed guaranteed progressive jackpot prizes.

**AMENDATORY SECTION** (Amending Order 228, filed 10/15/91, effective 11/15/91)

**WAC 230-02-110 Gross gambling receipts defined.** "Gross gambling receipts" means the monetary value ~~((that would be)), stated in U.S. currency,~~ due to any operator of a gambling activity for ~~((any chance taken, for any table fees for card playing, other fees for participation, or rent and lease fees for amusement games received by commercial amusement game operations, as evidenced by required records)) purchase of a chance to play a punch board or pull-tab series; purchase of a chance to enter a raffle; fees or purchase of cards to participate in bingo games; fees for participation in an amusement game, including rent or lease payments paid to licensees or franchisers for allowing operation of an amusement game on their premises; and any fee to participate in, or net win from, any card games or fund-raising events as defined in WAC 230-02-109.~~ The value shall be ~~((stated in U.S. currency;))~~ before any deductions for prizes or ~~((any))~~ other expenses. ~~((In the absence of records, gross gambling receipts shall be the maximum that would be due to an operator from that particular activity if operated at maximum capacity.))~~

Fees from players for entry into a player-supported jackpot held in conjunction with card games are not gross gambling receipts: Provided, That any portion of wagers deducted for any purpose other than increasing current prizes or repayment of amounts used to seed such prizes shall be treated as gross gambling receipts.

#### **REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 230-02-400 Card game.

**AMENDATORY SECTION** [(Amending WSR 98-04-023, filed 1/28/98)]

**WAC 230-02-415 Card room employee defined.** A "card room employee" is any person who is involved in the operation of social card games conducted by a card room when such games involve the collection of fees.

Individuals who only perform duties of bartenders, waitresses or similar functions limited to providing food and drink service within the card room portion of the licensed premises are not "card room employees." Persons performing at least the following functions shall be designed as card room employees:

- (1) Collecting fees;
- (2) Dealing;
- (3) Supervising any card game or card room employee, such as acting as a pit boss, floor person, section supervisor, etc.;
- (4) Cashier duties such as selling or redeeming chips;
- (5) Surveillance of dealers and card games to detect cheating or control functions;
- (6) Controlling card room funds including keys to secure locations; ~~((;~~
- ~~((7) Key employees as defined in WAC 230-02-425.))~~

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

#### **REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 230-02-425 Key employee defined.

**AMENDATORY SECTION** (Amending Order 190, filed 4/18/89, effective 7/1/89)

**WAC 230-04-022 Certification procedure—Information required from all applicants.** In addition to other information required by the commission, each applicant shall provide the following information on or attached to the application:

(1) Copy of corporate applicants' articles of incorporation and bylaws; or, if not a corporation, a copy of any bylaws and other documents which set out the organizational structure and purposes of the organization;

(2) A copy of a nonprofit or charitable applicant's Internal Revenue Service tax exemption letter if one has been obtained;

(3) Details and copies of all lease or rental arrangements, whether oral or written, between the applicant and the owner of premises upon which the gambling activity will be conducted, if such premises are leased or rented;

(4) Details and copies of any and all franchise agreements or other agreements, whether written or oral, if any, between the applicant and distributors or manufacturers of equipment or between the applicant and any other person where those agreements relate to gambling activities or gambling equipment;

(5) Details and copies of all proposed management agreements or contracts between the applicant and any gambling service supplier involved in providing services defined in WAC 230-02-205. All such agreements or contracts shall be reviewed by commission staff prior to the effective dates of the agreements to assure compliance with this title. No financing or management services shall be provided prior to commission approval of the contracts:

(6) The name, address, date of birth, and Social Security number of each paid employee or agent who will work in the activity for which the license is sought and a schedule of the proposed number of employees, job descriptions, and a proposed pay schedule;

~~((6))~~ (7) For each person listed below, a completed copy of the commission's form entitled "Personal information form":

(a) Each person who has a substantial interest in the applicant;

(b) Each person who is the chief executive officer, the chairman of a board, and the financial records officer of a corporation and/or bona fide nonprofit charitable organization;

(c) Each person who will serve in a supervisory capacity over those persons in the direct management or direct operation of the activity for which the license is sought;

~~((7))~~ (8) If any information required on the application, changes or becomes inaccurate in any way, the commission shall be notified prior to issuance of a license. Failure to notify the commission of any changes affecting an application may constitute grounds for suspension or revocation of all licenses.

~~((8))~~ (9) Sections (1), (2), and ~~((6))~~ (7) shall not apply to applications by or on behalf of an incorporated city or town in the state of Washington.

**AMENDATORY SECTION** (Amending Order 304, filed 11/21/96, effective 1/1/97)

**WAC 230-04-140 Licensing of public card room employees.** (1) No person shall act as ~~((a public card room))~~ an employee in a Class E, F, or house-banked card room unless he or she has either received a license to do so from the commission or, if:

(a) The commission has not previously revoked a license or denied an application by that person for such a license; and

(b) He or she has properly applied for such license. If there has been such a previous denial or revocation, or if the applicant has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to certain offenses set forth in RCW 9.46.158, or violated any of the provisions of RCW 9.46.075 and WAC 230-04-400, that person shall not act as a public card room employee unless he or she has been issued a license by the commission.

(2) On or before the first day he or she actually performs work as a public card room employee, a person shall submit an application for a license to the commission. Such application shall not be deemed complete and properly submitted for the purposes of this rule unless and until all questions on the commission's application form and attachments are fully and truthfully answered and the form, with all attachments, together with the required fee, has been delivered to the commission office during regular business hours (or actually deposited in the United States mail properly addressed to the commission): ~~Provided, That ((the requirements of this section shall not apply to persons employed in a public card room operating under a Class B or Class D license only))~~ there will be a twenty-day waiting period from the date the application is postmarked (or date stamped by the commission if delivered in person) before the employee may begin performing as a card room employee in a house-banked card room. Commission staff may waive the twenty-day waiting period for an employee when there is an urgent and unexpected need to prevent an interruption in the card room activity beyond the control of the licensee. This waiver will only be allowed if expedited review procedures can be completed. Waivers will not be granted as a means to accommodate the start-up of operations, temporary employee absences, or to provide for special occasions or holidays that are within the control of the licensee. The fee for an emergency waiver shall be as required by WAC 230-04-204. In addition, the applicant must complete a training course as provided by the commission within 30 days after the first day worked.

(3) If an applicant elects to perform the duties of a card room employee prior to receiving a license as authorized under the provisions of paragraph (1)(a) and (b) above, the

commission shall retain the entire application fee regardless of the disposition of the application.

(4) A sole owner, partner, major officer and/or owner of a substantial interest in a corporation licensed to operate a public card room shall not be required to be additionally licensed as a public card room employee to perform duties in connection with the card room. Except as provided in this section, an operator of a public card room shall not employ any unlicensed person to perform duties for which a license is required in or in connection with a public card room, and shall take all measures necessary to prevent an unlicensed person from doing so.

~~((5)) The operator of a public card room or partner or officer of the entity operating the card room for which the applicant will work shall sign the application of each such public card room employee acknowledging that the applicant will be working for that operator with the operator's knowledge and consent.)~~

(5) A card room employee license shall be valid for a period not to exceed one year beginning on the date the application was submitted to the commission.

(6) A card room employee may change employers or begin employment at another location if they provide a copy of their license or card room employee's application to the new employer. The employer shall maintain a photocopy of each employee's license or card room employee's application on the licensed premises at all times. Such copies shall be available for review by commission staff and law enforcement personnel upon request.

(7) A certified Class III gaming employee may apply for a license conversion to a licensed card room on a form provided by the commission. A fee for the conversion shall be as required by WAC 230-04-204.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-04-142	Notification to the commission upon beginning, terminating, or changing employment—Public card room employees.
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**AMENDATORY SECTION** (Amending Order 377, filed 11/30/99, effective 12/31/99)

**WAC 230-04-203 Fees—Commercial stimulant and other business organizations.** All persons seeking to operate gambling activities at business locations shall submit the following fees to the commission when applying for gambling licenses, permits, miscellaneous changes, inspection services, or when assessed the cost of special investigation procedures by the commission:

PROPOSED

LICENSE TYPE	DEFINITION	FEE
<b>1. CARD GAMES</b>		
Class B	Up to five tables of limited card games - hearts, rummy, pitch, pinochle, and/or cribbage (Fee to play charged)	\$ 166
Class C	Tournament only, no more than ten consecutive days per tournament.	\$
C-5	Up to five tables	\$ 166
C-10	Up to ten tables	\$ 300
C-15	Up to fifteen tables	\$ 500
Class D	General - Up to five tables (No fee to play charged)	\$ 53
Class E	*General (Fee to play charged)	
E-1	One table only	\$ 398
E-2	Up to two tables	\$ 685
E-3	Up to three tables	\$ 1,142
E-4	Up to four tables	\$ 2,287
E-5	Up to five tables	\$ 3,440
Additional tables up to a maximum of fifteen may be authorized for an additional per table fee of \$1000.		
*In addition to the above initial license fee, the commission will assess all applicants/licensees the actual costs that exceed the license fee for conducting the initial investigation and inspection, any follow-up reviews or investigations involved in the approval of activities and schemes.		
Class F	Enhanced cardroom activities endorsement - Includes alternative fee collections (per hand; pot rake)(;) and use of player-supported jackpot schemes ((and-increased betting limits)).	
	Annual license fee	\$1,500
<b>2. CARD GAMES - HOUSE-BANKED</b>		
	All tables within a card room operating any house-banked card game shall be licensed under this license class.	
	*Annual license fee	\$6,000
	Per table fee (up to fifteen tables)	\$1,500
*The commission will assess all applicants the actual costs for conducting the initial license investigation and premises inspection. Any post licensing follow-up reviews, inspections, internal control evaluations or subsequent phases of operation shall also be charged actual costs. Licensees will be evaluated and charged for these additional authorizations/phases on an individual case by case basis.		
<b>3. COMMERCIAL AMUSEMENT GAMES</b>		
	(Fee based on annual gross gambling receipts)	
* Class A	Premises only	** \$ 285/\$ 130
Class B	Up to \$ 50,000	\$ 398
Class C	Up to \$ 100,000	\$ 1,024
Class D	Up to \$ 250,000	\$ 2,287
Class E	Up to \$ 500,000	\$ 4,012
Class F	Up to \$1,000,000	\$ 6,883
Class G	Over \$1,000,000	\$ 8,610
* Allows a business that is qualified under WAC 230-04-138 (1)(f), (g), (h), (i), or (j) to enter into a contract with a class "B" or above commercial amusement game licensee to locate and operate amusement games upon their premises.		

LICENSE TYPE	DEFINITION	FEE
** Provides for a fee reduction of \$150 when: Renewing an annual license; applying for an additional license(s) at the same premises; and/or applying for multiple licenses at the same premises.		
<b>4. PUNCH BOARDS/ PULL-TABS</b> (Fee based on annual gross gambling receipts)		
		<b>VARIANCE*</b>
Class A	Up to \$ 50,000	\$5,000 \$ 544
Class B	Up to \$ 100,000	\$5,000 \$ 971
Class C	Up to \$ 200,000	\$10,000 \$ 1,832
Class D	Up to \$ 300,000	\$10,000 \$ 2,663
Class E	Up to \$ 400,000	\$10,000 \$ 3,440
Class F	Up to \$ 500,000	\$10,000 \$ 4,153
Class G	Up to \$ 600,000	\$10,000 \$ 4,812
Class H	Up to \$ 700,000	\$10,000 \$ 5,416
Class I	Up to \$ 800,000	\$10,000 \$ 5,967
Class J	Up to \$ 1,000,000	\$20,000 \$ 6,765
Class K	Up to \$ 1,250,000	\$25,000 \$ 7,509
Class L	Up to \$ 1,500,000	\$25,000 \$ 8,201
Class M	Up to \$ 1,750,000	\$25,000 \$ 8,771
Class N	Up to \$ 2,000,000	\$25,000 \$ 9,290
Class O	Over \$ 2,000,000	Nonapplicable \$ 10,208
* A licensee will be allowed a one-time variance for each license class without having to upgrade or pay the penalties set forth in WAC 230-04-260: Provided, That a licensee utilizing the variance shall be required to upgrade to the higher license class upon renewal.		
<b>5. PUNCH BOARD AND PULL-TAB SERVICE BUSINESS</b>		
	(See WAC 230-04-133) *Initial application fee	\$ 206
	Additional associate	\$ 129
	Renewal	\$ 51
*Includes up to two associates.		
<b>6. DISTRIBUTOR</b> (Fee based on annual gross sales of gambling related supplies and equipment)		
(a)	Class A Nonpunch board/pull-tab only	\$ 571
	Class B Up to \$ 250,000	\$ 1,142
	Class C Up to \$ 500,000	\$ 1,715
	Class D Up to \$1,000,000	\$ 2,287
	Class E Up to \$2,500,000	\$ 2,977
	Class F Over \$2,500,000	\$ 3,667
In addition to the annual fee, the commission will assess all applicants the actual costs incurred in conducting the investigation and inspection necessary for initial certification.		
(b)	<b>FUND-RAISING EVENT EQUIPMENT DISTRIBUTOR</b>	
	Class A Rents or leases equipment for fund-raising event or recreational gaming activity up to 10 times per year.	\$ 226
	Class B Rents or leases equipment for fund-raising event or recreational gaming activity more than 10 times per year.	\$ 571
<b>7. GAMBLING SERVICE SUPPLIER</b>		
	(See WAC 230-04-119)	\$ 594

LICENSE TYPE	DEFINITION	FEE
<p>In addition to the annual fee, the commission will assess all applicants the actual costs incurred in conducting the investigation and inspection necessary for initial certification.</p> <p>An annual fee of \$129 shall be charged for each new contract initiated by the gambling service supplier.</p>		
8. LINKED BINGO PRIZE PROVIDER	(See WAC 230-04-126)	\$ 3,815
9. MANUFACTURER	(Fee based on annual gross sales of gambling related supplies and equipment)	
Class A	Pull-tab dispensing devices only	\$ 571
Class B	Up to \$ 250,000	\$ 1,142
Class C	Up to \$ 500,000	\$ 1,715
Class D	Up to \$1,000,000	\$ 2,287
Class E	Up to \$2,500,000	\$ 2,977
Class F	Over \$2,500,000	\$ 3,667
<p>In addition to the annual fee, the commission will assess all applicants the actual costs incurred in conducting the investigation and inspection necessary for initial certification, quality control inspection for additional activities or product lines, compliance suitability evaluations, and renewal of licenses when travel cost is incurred to complete the investigation.</p>		
10. PERMITS		
AGRICULTURAL FAIR/ SPECIAL PROPERTY BINGO		
Class A	One location and event only (See WAC 230-04-191)	\$ 26
Class B	Annual permit for specified different events and locations (See WAC 230-04-193)	\$ 166
RECREATIONAL GAMING ACTIVITY (RGA)	(See WAC 230-02-505 and 230-25-330)	\$ 53
11. CHANGES		
NAME	(See WAC 230-04-310)	\$ 26
LOCATION	(See WAC 230-04-320)	\$ 26
BUSINESS CLASSIFICATION	(Same owners) (See WAC 230-04-340)	\$ 53
LICENSE CLASS	(See WAC 230-04-260) New class fee, less previous fee paid, plus	\$ 26
DUPLICATE LICENSE	(See WAC 230-04-290)	\$ 26
OWNERSHIP OF STOCK	(See WAC 230-04-340)	\$ 53
LICENSE TRANSFERS	(See WAC 230-04-125, 230-04-340, and 230-04-350)	\$ 53

LICENSE TYPE	DEFINITION	FEE
12. SPECIAL FEES		
INVESTIGATION	(See WAC 230-04-240)	As required
IDENTIFICATION AND INSPECTION SERVICES STAMPS	(See WAC 230-08-017)	As required
QUALITY CONTROL INSPECTION FEES	(See WAC 230-30-030)	As required
REPLACEMENT OF IDENTIFICATION STAMPS	(See WAC 230-30-017)	\$ 26
EXCEEDING LICENSE CLASS REVIEW, INSPECTION AND/ OR EVALUATION OF EQUIPMENT, PARAPHERNALIA, SERVICES, OR SCHEMES	(See WAC 230-04-260)  (See WAC 230-12-315)	As required  As required
SPECIAL SALES PERMITS	(See WAC 230-04-115)	As required
13. SIX-MONTH PAYMENT PLAN	(See WAC 230-04-190)	\$ 26

**AMENDATORY SECTION** (Amending Order 377, filed 11/30/99, effective 12/31/99)

**WAC 230-04-204 Fees—Individuals.** Individuals shall submit the following fees to the commission when applying for gambling licenses, permits, miscellaneous changes, or when assessed the cost of special investigation procedures by the commission:

LICENSE TYPE	DEFINITION	FEE
1. CHARITABLE OR NON-PROFIT GAMBLING MANAGER	Original	\$ 166
	Renewal	\$ 80
	Change of Employer	\$ 80
2. LINKED BINGO PRIZE PROVIDER REPRESENTATIVE	Original	\$226
	Renewal	\$ 139
3. COMMERCIAL GAMBLING MANAGER	Original	\$ 166
	Renewal	\$ 80
	Change of Employer	\$ 80
4. DISTRIBUTOR'S OR GAMBLING SERVICES SUPPLIER REPRESENTATIVE	Original	\$ 226
	Renewal	\$ 139
5. MANUFACTURER'S REPRESENTATIVE	Original	\$ 226
	Renewal	\$ 139

PROPOSED

6.	PUBLIC CARD ROOM EMPLOYEE	CLASS A - Performs duties as defined in WAC 230-02-415 in a class E card room.	Original \$ 166 Renewal \$ 80
		CLASS B - Performs duties as defined in WAC 230-02-415 in enhanced and house-banked card rooms.	Original, in-state \$ 224 Original, out-of-state \$ 279 Renewal \$ 139
		((Transfer/Additional Employee))Conversion/Emergency Waiver Request	\$ 55
<hr/>			
7.	OTHER FEES		
	CHANGE OF NAME	(See WAC 230-04-310)	\$26
	DUPLICATE LICENSE	(See WAC 230-04-290)	\$26
	OUT-OF-STATE RECORDS INQUIRY	(See WAC 230-04-240)	As required

**NEW SECTION**

**WAC 230-04-207 Additional requirements—House-banked card games.** Prior to being granted a license, each applicant for a house-banked card room license shall demonstrate their ability to comply with commission requirements for operation of house-banked card games. In order to demonstrate this capability, an applicant shall provide such information as the commission staff may require. Such information shall be reviewed and any discrepancies corrected prior to the granting of a license. At least the following shall be submitted as a part of their application:

(1) A detailed description of its planned system of internal accounting and administrative controls in the standard format prescribed by commission staff. Such information shall meet all requirements set forth in WAC 230-40-815 and be presented in both a narrative and diagrammatic form;

(2) A detailed diagram of the planned physical layout of the card room and all supporting installations. Such diagram shall include at least the following:

- (a) The location of all gaming tables;
- (b) The location of all surveillance cameras;
- (c) The count room;
- (d) The surveillance room; and
- (e) The cashier's cage;

(3) A detailed description of:

- (a) Card games to be played, including rules of play; and
- (b) Type of gaming tables, including table layouts.

**AMENDATORY SECTION** (Amending Order 12, filed 2/14/74)

**WAC 230-04-255 Director may issue temporary licenses ((not to exceed sixty days))—Procedures—Restrictions.** The director may issue a temporary license ((by the commission)) upon the administrative approval of the

application ((for a license)). The following procedures and restrictions apply to temporary licenses:

(1) The director shall not issue temporary licenses to:

(a) Manufacturers; and

(b) Applicants to operate house-banked card games;

(2) Temporary licenses shall allow an applicant to conduct such activity for a period not to exceed sixty days. If the application is not approved by the commission during the sixty day period, ((such)) the temporary license shall become void: Provided, That if the commission does not conduct a meeting within the sixty-day period, the director may approve an additional temporary license to expire no later than the day following the next scheduled public meeting;

(4) Once approved by the commission, a temporary license will be replaced with the issuance of a license to expire one year from the initial date of the temporary license ((issued by the director under this provision)).

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

**AMENDATORY SECTION** (Amending Order 91, filed 8/14/79)

**WAC 230-04-450 Display of licenses.** All licenses or permits granted by the commission shall be prominently displayed in the licensee's gaming area and available for inspection by commission staff, law enforcement agents and the public at all times ((upon the licensed premises in such position as they may be observed by persons participating in gambling activities on the licensed premises, except as may otherwise be provided by these rules.

If a licensed employee works in similar employment for one or more additional employers than the employer upon whose premises the original license is displayed, the employee may obtain from the commission such copy or copies of his or her license as may be necessary for display upon the premises of such additional employer)); Provided, That individual licenses, as set forth in WAC 230-04-204, shall not be required to be on display but must be available to the public upon request.

**AMENDATORY SECTION** (Amending Order 369, filed 12/1/98, effective 1/1/99)

**WAC 230-08-040 Sales invoices—Minimum information to be recorded for transfer of gambling equipment and merchandise—Retention—Penalties.** The following requirements apply to sales invoices:

(1) In addition to entries required by WAC 230-08-025, the following information shall be recorded on invoices for sales or transfer of gambling equipment ((and)), merchandise, and card room forms:

(a) Punch boards/pull-tabs - for each board or series:

(i) Trade name of device;

(ii) Type of device;

(iii) Form number or other manufacturer-assigned scheme to specifically identify a device, including the size or number of chances; and

(iv) Identification and inspection services stamp number.

PROPOSED

(b) Pull-tab dispensing devices:

- (i) Trade name of device;
- (ii) Type of device; and
- (iii) Identification and inspection services stamp number.

(c) Disposable bingo cards - for each set of cards or collation of packets:

- (i) Type of product, including product line;
- (ii) Description of product, including the number of cartons, "series," "on," "cut," and "up";
- (iii) Identification and inspection services stamp number;
- (iv) Serial number or, if packets, serial number of the top page;
- (v) Color and border pattern or, if packets, color and border pattern of the top page;
- (vi) The unit or package number when a series or collation has been divided as authorized in WAC 230-20-192(6); and

(vii) For disposable bingo cards to be sold for linked bingo prizes the beginning and ending sheet numbers sold to or returned from the operator.

(d) Merchandise to be used as prizes for any gambling activity, whether purchased from a licensed distributor or from other than a licensed distributor, must be recorded on a sales invoice or receipt. The following information must be on the sales invoice or receipt provided by the seller:

- (i) The date of purchase;
- (ii) The company's name and adequate business address;
- (iii) A full description of each item purchased;
- (iv) The quantity of items purchased; and
- (v) The cost per individual items purchased; and
- (e) Card room forms - all required serially prenumbered forms:

(i) Type of form;

(ii) Beginning and ending serial numbers; and

(iii) Quantity of forms.

(f) All other gambling equipment:

- (i) Trade name of device;
- (ii) Type of device;
- (iii) Serial number or other identification numbers or characteristics; and

(iv) Identification and inspection services stamp number.

(2) All sales invoices and receipts must be maintained by the ~~((operator))~~ licensee for at least three years.

(3) Any manufacturer, distributor, linked bingo prize provider, or licensed representative of the above, who fails to accurately complete any invoice for the sale or return of a punch board, pull-tab series, pull-tab dispensing device, disposable bingo cards, related merchandise, or other gambling device may be assessed a fee of up to fifty dollars per incomplete invoice. The fee shall be used to defray extra costs incurred by the commission in tracking transfers or other monitoring procedures as a result of errors or omissions.

**AMENDATORY SECTION** (Amending Order 238, filed 4/21/93, effective 7/1/93)

**WAC 230-08-090 Daily records—Card games.** In addition to any other requirements set forth in these rules,

persons licensed to operate card rooms at which a fee is charged to play or which operates a player-supported jackpot (PSJ) or house-banked card games shall be required to prepare a detailed record covering each ~~((occasion. This))~~ day of operation. Each separate record shall be maintained continuously during hours of operation and ~~((updated immediately following the collection of fees during all time periods. The commission shall provide to the licensee a consecutively pre-numbered standard format record sheet. This form shall contain the following:~~

(1) The date of the occasion;

(2) The time that the half hour fee was charged;

(3) The amount of half hour fee charged per table;

(4) The number of players at each table at half hour intervals to include all nonpaying house players;

(5)) entries made as required by this section. The format for such records shall be as prescribed by the commission. The records shall include information to be placed in a form, record or document, or in stored data which shall be annotated in ink or other permanent form. Data maintained in computer data bases must be printed on a periodic basis. Daily card room records shall be maintained as follows:

(1) Separate records shall be prepared for each day social card games are played and fees collected or house-banked card games are operated. Such records shall be completed for each table and each PSJ for which fees are collected from players. The minimum daily records shall include the following information:

(a) The date and time period during which fees were collected or house-banked card games were operated.

(b) The assessment method and the fee charged per assessment method for each table.

(c) The names and time of play for each nonpaying house player (which may only include licensed card room employees and the licensee);

~~((6))~~ (d) The amount of fees collected at each table at each ((half hour)) collection interval;

~~((7))~~ (e) The ((cumulative)) gross amount received from fees collected on each ((occasion and in total);

(8) A reconciliation of chips and cash on a daily basis; and

~~((9) A printed name, signature, and hours worked of the person who was responsible for the collection of fees.))~~ operating day by table and by assessment method.

(f) The number of players at the time of fee collection when fees are assessed based on a period of time;

(g) A record of card room employees and hours worked; and

(h) The total drop which includes all cash placed in drop boxes and the net win or loss by the table and game type from house-banked card games.

(2) Fees for tournaments shall be recorded as set forth in WAC 230-40-055.

(3) PSJ records shall include the following information in addition to the information required by subsection (1) of this section:

(a) A separate entry for each type of PSJ for which fees were collected to include:

(i) Table number;

(ii) Prize fund number; and

(iii) Assessment rate.

(b) PSJ fund accrual record.

(4) A daily summary record that includes a reconciliation of all fees collected during an operating day shall be prepared for each day card games are operated and fees collected. This record shall include at least the following:

(a) The name of the licensee;

(b) The date of the activity. If the activity spans two days, the day that the activity begins shall be recorded;

(c) Card room hours of operation;

(d) The beginning and ending balances of all chips and cash in the cage;

(e) The printed name and signature of person(s) preparing the record; and

(f) Such other daily records as required for specific card room activities.

(5) All detailed records (~~sheets issued to a licensee shall be numerically accounted for, and~~) prepared shall be maintained (~~on the premises~~) for a period of not less than three years (~~from the date of the occasion which it records. An "occasion" for card rooms shall be defined as 20 hours beginning at 6:00 a.m. one day and running continuously through 2:00 a.m. the following day~~). At least the past six months of records must be available on premises. All other records shall be available within forty-eight hours upon request by commission staff, local law enforcement or taxing authorities.

#### NEW SECTION

**WAC 230-08-027 House-banked card games—General accounting records to be maintained.** Every licensee authorized to offer house-banked card games shall keep and maintain a complete set of records, which have been approved by commission staff. Such records shall include all details of activities related to the conduct of the licensed activity. The following requirements shall apply:

(1) Each licensee shall maintain legible, accurate and complete records of all transactions relating to the revenues and costs of the gaming operation. These records shall be maintained in a format to ensure consistency, comparability, and effective disclosure of financial information.

(2) General accounting records shall be maintained on a double entry system of accounting with transactions recorded on an accrual basis, to include detailed, supporting, subsidiary records, sufficient to meet the requirements below.

(3) The detailed, supporting and subsidiary records shall include, but not necessarily be limited to:

(a) Records of all patrons' checks initially accepted, deposited, and returned as "uncollected," and ultimately written off as "uncollectible";

(b) Statistical game records to reflect drop and win amounts for each table, for each game, and for at least each period for which the drop boxes are removed, which shall be at the minimum, the end of each gaming day;

(c) Records of investments in property, including, but not limited to, equipment used directly in connection with the gaming operation;

(d) Records of amounts payable by the gaming operation;

(e) Records which identify the purchase, receipt, and destruction of all cards and gaming chips used in wagering; and

(f) Records of services provided for the operation of gaming activity.

(4) Whenever duplicate or triplicate copies are required of a form, record or document:

(a) The original, duplicate, and triplicate copies shall be color-coded;

(b) If under these standards, forms, records, and documents are required to be inserted in a locked dispenser, the last copy shall remain in a continuous unbroken form in the dispenser; and

(c) If under these standards, forms or serial numbers of forms are required to be accounted for or copies of forms are required to be compared for agreement and exceptions noted, such exceptions shall be reported immediately to the commission for investigation.

(5) All forms, records, documents and stored data required to be prepared, maintained and controlled shall:

(a) Have the title of the form, record, document, or stored data such as "fill slip," "request for fill," "credit slip," "request for credit," "reconciliation," etc., imprinted or pre-printed thereon or therein; and

(b) Be located at the licensed premises for three years: Provided, That the director or the director's designee may waive parts of this section if requested by the licensee.

(6) Licensees shall maintain a records system that ensures all applicable employees have met licensing requirements. The system shall include employee names, license numbers and expiration dates. In addition, photocopies of all current employees' licenses must be maintained on the premises. If an employee license has not yet been issued, the licensee shall maintain a copy of the temporary employment authorization, documentation that the required payment has been made, and whether the employee has adhered to the twenty-day waiting period, if applicable. The licensee shall ensure the commission is notified if an employee license has not been received within sixty days of employment.

**AMENDATORY SECTION** (Amending WSR 95-07-094, filed 3/17/95, effective 7/1/95)

**WAC 230-08-160 Quarterly activity reports by operators of social and public card rooms.** Each licensee for the operation of social or public card rooms shall submit an activity report to the commission concerning the operation of the licensed activity and other matters set forth below: Provided, That persons licensed under Class "D" - general, no fee charged, are exempt from all portions of this section:

(1) Reports shall be submitted detailing activities occurring during each of the following periods of the year:

(a) January 1st through March 31st;

(b) April 1st through June 30th;

(c) July 1st through September 30th; and

(d) October 1st through December 31st.

(2) A report shall be submitted for any period of time the activity was operated or a license was valid. If a license is not renewed, a report for the period between the previous report filed and the expiration date shall be submitted;



(3) The report form shall be furnished by the commission and the completed report shall be received in the office of the commission or postmarked no later than thirty days following the end of the period for which it is made;

(4) The report shall be signed by the highest ranking executive officer or their designee. If the report is prepared by someone other than the licensee or an employee, the preparer shall print his/her name and phone number on the report;

(5) The report shall be completed in accordance with the related instructions furnished with the report. The report shall include the following:

(a) Gross gambling receipts (~~from the collection of fees charged for allowing persons to play~~);

(b) Full details of all compensation paid by the licensee to each person for any work connected with the management, promotion, conduct or operation of the card room (~~including~~);

~~(i) A description of the work performed by that person, including identifying each dealer;~~

~~(ii) The hourly wage, including benefits;~~

~~(iii) The total hours worked during the period); (and~~

~~(iv)) (c) Full details of all other expenses related to the operation of the card room;~~

~~((e)) (d) Net gambling income or loss from the operation of the card room for the reporting period;~~

~~((f)) (e) The normal days and times of operation of the card room; and~~

~~((g)) (f) The total hours the card room was open during the period.~~

**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 collected 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:

(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;

(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.

(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

(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)) (7)~~;

(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))~~.

#### NEW SECTION

**WAC 230-12-072 Player-supported jackpot funds—Deposit requirements.** Each licensee authorized to conduct player-supported jackpots (PSJs) shall protect and ensure proper accountability of all funds collected from players. Funds shall be controlled as follows:

(1) Each licensee shall maintain a bank account for holding PSJ funds. The account shall be kept separate from all other accounts of the entity and be maintained in a recognized Washington state depository for purposes of depositing PSJ funds.

(2) Only receipts from PSJ shall be deposited into the account.

(3) No expenditures shall be made from the receipts of any PSJ until such receipts have first been deposited in the PSJ: Provided, That licensees may pay out prizes won during the operating day and deduct administrative expenses prior to deposit.

(4) Receipts from the operation of PSJs, which are being held pending disbursement, shall be deposited in the licensee's PSJ account within two banking days of the date of collection: Provided, That funds deposited within two days to an armored car service shall meet this requirement.

(5) All deposits of PSJ funds shall be specifically identified by type of fund and dates of collection. The validated deposit receipt shall be kept as a part of the records required by WAC 230-08-090.

(6) At the end of each month, the account balance per the bank statement shall be reconciled to the PSJ fund balances. The reconciliation shall be kept as a part of the records required by WAC 230-08-090.

#### NEW SECTION

**WAC 230-12-073 House-banked card games—Prizes—Deposit requirements.** Each organization licensed to conduct house-banked card games shall ensure sufficient funds are available to pay prizes offered. Funds shall be controlled as follows:

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(1) Each licensee shall maintain a bank account for holding jackpot prizes accrued at house-banked card games. The account shall be separate from all other accounts of the entity and be maintained in a recognized Washington state depository for purposes of depositing prize funds.

(2) Amounts accrued for any house-banked game which offers a progressive jackpot shall be deposited into the jackpot prize account at least weekly for all disclosed and reserve jackpot funds.

(3) In addition to any progressive jackpot prize funds required to be maintained in the bank account, licensees shall also deposit and maintain in the account an amount equal to the total of all individual prizes offered which exceed twenty-five thousand dollars. For games in which the prize is based on the amount wagered, the highest wager allowed by the licensee shall be used in computing the individual prize amount for purposes of determining the deposit requirement.

(4) No game shall be offered for play until the above conditions have been met. At anytime that the prize account is reduced below the level required, the licensee shall immediately cease operating games until they are in compliance. At no time shall the account go below the total amount of progressive jackpots and individual prizes offered over twenty-five thousand dollars. Failure to maintain funds as required above shall be prima facie evidence of defrauding the public in violation of RCW 9.46.190.

(5) A record of all deposits shall specifically identify by game name and number and dates of collection for progressive prizes. The validated deposit slip shall be kept as part of the records required by WAC 230-08-090.

(6) At the end of each month, the account balance per the bank statement shall be reconciled to the jackpot prize balances. The reconciliation shall be kept as part of the records required by WAC 230-08-090.

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: Pasco Doubletree Hotel, 252 [2525] North 20th Avenue, Pasco, WA 98301, (509) 547-0701, on April 14, 2000, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Shirley Corbett by April 3, 2000, TDD (360) 438-7638, or (360) 438-7654 ext. 302.

Submit Written Comments to: Susan Arland, Mailstop 42400, Olympia, WA 98504-2400, fax (360) 438-8652, by April 3, 2000.

Date of Intended Adoption: April 14, 2000.

February 15, 2000

Susan Arland

Rules Coordinator

**WSR 00-05-103  
PROPOSED RULES  
GAMBLING COMMISSION**

[Filed February 16, 2000, 10:22 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-02-038 with a published date of February 18, 2000.

Title of Rule: Licensee reporting requirements, WAC 230-12-310.

Purpose: To clarify and streamline which criminal and civil actions must be reported to the commission. Furthermore, language was added so that licensees are required to report administrative actions related to gambling and ownership issues to the commission. In the past, it was not clear if "civil actions" included administrative actions.

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; and Enforcement: Sherri Winslow, Lacey, (360) 438-7654 ext. 301.

Name of Proponent: Staff, governmental.

**AMENDATORY SECTION** (Amending Order 162, filed 10/14/86)

**WAC 230-12-310 Licensees to report to the commission all civil ~~((or))~~, criminal and select administrative actions filed against them. (1) Each licensee shall report to the commission, all civil ~~((or))~~, criminal and select administrative actions filed by or against the licensee or the licensee's president, chief executive officer, chairman of the board, treasurer (chief financial officer), partner or any person holding a substantial interest or manager of the licensed gambling activity this includes, but is not limited to, actions involving the ownership or control of the business, managers, or dislocations of substantial interest holders, and actions, such as patent infringement. All civil cases involving personal injury, debt collection, adoption, paternity, wage disputes and non-criminal traffic infractions need not be reported.**

(2) Licensees must report administrative actions from other gambling regulatory agencies, including those from other countries.

(3) The report shall consist of a complete copy of the original documents filed. The licensee shall notify the commission of the final disposition of the case and include a copy of the final documents filed including, but not limited to, settlement agreements.

~~((3))~~ (4) This report shall be attached to the next quarterly activity report filed with the commission. Organizations not required to submit quarterly reports shall send the report to the commission within thirty days of their receipt of notice of the action filed and within thirty days have the final disposition.

((4)) (5) The director may exempt reporting specific types of civil actions upon written request and for good cause shown.

**WSR 00-05-104**  
**PROPOSED RULES**  
**STATE BOARD OF EDUCATION**

[Filed February 16, 2000, 10:25 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 99-06-079.

Title of Rule: WAC 180-27-102 Construction management.

Purpose: To delete recommendation that the construction manager be certified by the Construction Management Association of America.

Statutory Authority for Adoption: RCW 28A.525.020.

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

Name of Proponent: State Board of Education, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Passage of HB 1831 did not include the requirement that school districts hire construction managers certified by the Construction Management Association of America (CMAA). The original intent was that construction managers have demonstrable experience. The recommendation that construction managers be certified by the CMAA was not intended to be included.

Proposal Changes the Following Existing Rules: Construction managers are still required to have appropriate and demonstrable experience, but are not required to be certified by the CMAA.

Hearing Location: The Evergreen State College, The Longhouse, 2700 Evergreen Parkway N.W., Olympia, WA 98505, on March 22-24, 2000, at 8 a.m.

Assistance for Persons with Disabilities: Contact Patty Martin by March 14, 2000, TDD (360) 664-3631, or (360) 753-6715.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by March 14, 2000.

Date of Intended Adoption: March 24, 2000.

February 16, 2000

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 99-24-127, filed 12/1/99, effective 1/1/00)

**WAC 180-27-102 Construction management.** Prior to commencing with project design the district shall employ or contract personnel to perform professional construction management. Construction management shall be required for all

projects greater than fifty thousand square feet and is optional for projects fifty thousand square feet or less. For the purpose of this section construction management is defined as the process of professional management applied to a construction program for the purpose of controlling time, cost, and quality.

The construction manager shall have appropriate and demonstrable experience in the management of construction projects including procurement, contract administration, scheduling, budgets, quality assurance, information management, and health and safety. ~~((A construction manager certified by the Construction Management Association of America is desirable, but not mandatory.))~~

The amount of state assistance for which a district shall be eligible for construction management shall be the state matching percentage multiplied by two and one-half percent of the area cost allowance multiplied by the square foot area at the time of bid.

**WSR 00-05-107**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Health and Rehabilitative Services Administration)  
 [Filed February 16, 2000, 11:31 a.m.]

**Original Notice.**

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

Title of Rule: Division of Developmental Disabilities Family Support program rules, WAC 388-825-226, 388-825-228, and 388-825-254.

Purpose: Revises rule to include mandated rate increases for fiscal year 2000.

Statutory Authority for Adoption: RCW 71A.12.030 and 71A.12.040.

Statute Being Implemented: Section 206, chapter 309, Laws of 1999.

Summary: Under the Division of Developmental Disabilities Family Support program, rates for community guides, short-term intervention and service need levels are covered in rule. Since the majority of funding is used to pay providers, mandated vendor rate increases and those funded under Proviso 206 (1)(b) are reflected in the rate increase.

Reasons Supporting Proposal: This rule change shows the rate increases implemented in FY 2000.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Rita Dickey, Box 45310, Olympia, WA 98504, (360) 902-8451.

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: This rule updates WAC 388-825-226, 388-825-228, and 388-825-254. It increases rates for community guides, short-term intervention and service need levels to reflect vendor rate increases in the last biennial budget.

Proposal Changes the Following Existing Rules: Rates in current rule are updated to reflect changes.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This change increases the rates paid under the family support program and has no impact on small business.

RCW 34.05.328 does not apply to this rule adoption. The 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-A, Lacey, WA 98503, on March 21, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by March 10, 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 21, 2000.

Date of Intended Adoption: April 1, 2000.

February 8, 2000

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 99-04-071, filed 9/20/99, effective 9/20/99)

**WAC 388-825-226 Can the family support opportunity program help my family obtain financial assistance for community guide services?** The program will authorize up to two hundred four dollars per year for community guide services for your family.

**AMENDATORY SECTION** (Amending WSR 99-04-071, filed 9/20/99, effective 9/20/99)

**WAC 388-825-228 How can short-term intervention services help my family?** If your family is eligible, you may receive up to ~~((eleven))~~ one thousand two hundred dollars per year in short-term intervention funds to pay for necessary services not otherwise available. Short-term intervention funding cannot be used for basic subsistence such as food or shelter but is available for those specialized costs directly related to and resulting from your child's disability. Short-term intervention funds can be authorized for a one-time only need or for an episodic service need that occurs over a one-year period.

**AMENDATORY SECTION** (Amending WSR 97-13-051, filed 9/20/99, effective 9/20/99)

**WAC 388-825-254 Service need level rates.** (1) The department shall base periodic service authorizations on:

(a) Requests for family support services described in WAC ~~((275-27-220(2)))~~ 388-825-252(2) of this section;

(b) Service need levels as described in WAC ~~((275-27-220(3)))~~ 388-825-252(3) of this chapter. Service need level lid amounts are as follows:

(i) Clients designated for service need level one (WAC ~~((275-27-223))~~ 388-825-256) may receive up to ~~((nine hundred fifty-one))~~ one thousand twenty-four dollars per month or two thousand ~~((three hundred forty-one))~~ four hundred eleven dollars per month if the client requires licensed nursing care in the home:

(A) If a client is receiving funding through Medicaid Personal Care or other DSHS in-home residential support, the maximum payable through family support shall be four hundred ~~((twenty-one))~~ fifty-four dollars per month;

(B) If the combined total of family support services at this maximum plus in-home support is less than ~~((nine hundred fifty-one))~~ one thousand twenty-four dollars additional family support can be authorized to bring the total to ~~((nine hundred fifty-one))~~ one thousand twenty-four dollars.

(ii) Clients designated for service need level two may receive up to ~~((three))~~ four hundred ~~((seventy-six))~~ four dollars per month if not receiving funding through Medicaid personal care:

(A) If a client is receiving funds through Medicaid personal care or other DSHS in-home residential support service, the maximum receivable through family support shall be two hundred ~~((eleven))~~ twenty-seven dollars per month;

(B) If the combined total of family support services at this maximum plus in-home support is less than ~~((three))~~ four hundred ~~((seventy-six))~~ four dollars, additional family support can be authorized to bring the total to ~~((three))~~ four hundred ~~((seventy-six))~~ four dollars.

(iii) Clients designated for service need level three may receive up to two hundred ~~((eleven))~~ twenty-seven dollars per month provided the client is not receiving Medicaid personal care. If the client is receiving Medicaid personal care or other DSHS in-home residential support service, the maximum receivable through family support shall be one hundred ~~((six))~~ fourteen dollars per month; and

(iv) Clients designated for service level four may receive up to one hundred ~~((six))~~ fourteen dollars per month family support services.

(c) Availability of family support funding;

(d) Authorization by a review committee, in each regional office, which reviews each request for service;

(e) The amounts designated in subsection (1)(b)(i) through (iv) of this section are subject to periodic increase if vendor rate increases are mandated by the legislature.

(2) The department shall authorize family support services contingent upon the applicant providing accurate and complete information on disability-related requests.

(3) The department shall ensure service authorizations do not exceed maximum amounts for each service need level based on the availability of funds.

(4) The department shall not authorize a birth parent, adoptive parent, or stepparent living in the same household as the client as the direct care provider for respite, attendant, nursing, therapy, or counseling services for a child seventeen years of age or younger.

**WSR 00-05-110**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed February 16, 2000, 11:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-01-105.

Title of Rule: WAC 388-424-0015 Citizenship and alien status—Eligibility requirements for the state family assistance program.

Purpose: The rule change will result in equitable treatment of immigrants under SFA and have it coincide with the temporary assistance to needy families (TANF) program in which residency requirements are no longer being enforced.

Statutory Authority for Adoption: RCW 74.04.050, 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.08.090.

Summary: The rule will no longer require aliens who entered United States on or after August 22, 1996, to reside in Washington state for twelve consecutive months in order to receive SFA.

Reasons Supporting Proposal: Equitable treatment of immigrants under SFA and consistent with TANF in which residency requirements are no longer being enforced.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lisa Yanagida, DAP, 1009 College Street, Lacey, WA 98504, Mailstop 45470, (360) 413-3104.

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

Rule is necessary because of federal court decision, Saenz v. Roe, 134 F.3d 1400 (1999).

Explanation of Rule, its Purpose, and Anticipated Effects: The rule will no longer require aliens who entered United States on or after August 22, 1996, to reside in Washington state for twelve months in order to receive SFA. This change will result in equitable treatment of immigrants under SFA and have it coincide with the temporary assistance to needy families (TANF) program in which residency requirements are no longer being enforced.

Proposal Changes the Following Existing Rules: WAC 388-424-0015 Delete subsection (1) which pertains to residency requirement.

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. The rule does not meet the definition of a significant legislative rule.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-A, Lacey, WA 98503, on March 21, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by March 7, 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.

Date of Intended Adoption: No sooner than March 22, 2000.

February 8, 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 388-424-0015 Citizenship and alien status—Eligibility requirements for the state family assistance program (SFA).** ~~((1) Aliens who first physically enter the U.S. on or after August 22, 1996 can receive SFA only after an adult caretaker relative in the assistance unit has resided in Washington state for twelve consecutive months. This requirement:~~

~~(a) Applies to an alien only once during his or her lifetime; and~~

~~(b) Does not apply to North American Indians born in Canada who are allowed to cross the U.S./Canadian border freely under section 289 of the INA.~~

~~(2)) To receive SFA benefits, ((persons)) you must be: ((a) Qualified aliens who are)) (1) A qualified alien who is not eligible for TANF benefits because of the five-year period of ineligibility described in WAC 388-424-0010(2); or ((b) Aliens who are)) (2) An alien who is permanently residing in the U.S. under color of law (PRUCOL) as defined in WAC 388-424-0005(4).~~

**WSR 00-05-111**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed February 16, 2000, 11:41 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-41 [99-12-114].

Title of Rule: WAC 296-20-022 Payment of out-of-state providers, 296-21-290 Physical medicine, 296-23A-0230 How does the department or self-insurer pay out-of-state hospitals for hospital services? and new section WAC 296-20-12401 Provider application process.

Purpose: To revise the reimbursement methodology for payment to providers outside the state of Washington who treat or provide other health care related services to Washington injured workers.

Statutory Authority for Adoption: RCW 51.04.020, 51.04.030.

Statute Being Implemented: Chapter 51.36 RCW.

Reasons Supporting Proposal: These WAC changes will provide equity of payment methods between Washington state.

PROPOSED

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Evonne Peryea, Tumwater, Washington, (360) 902-6828.

Name of Proponent: Department of Labor and Industries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Explanation of rule(s): These rules explain the reimbursement methodologies, coverage and payment policies applicable to health care providers rendering treatment and other related services to injured workers when the provider is located outside of Washington state.

Purpose of rules(s): The purpose of these rules is to clarify that department's rules, coverage and payment policies apply to the injured worker's case regardless of geographic location of the provider.

Anticipated Effects of Rule(s): These rules will provide equity of coverage and payment rules and reimbursement methods for all providers regardless of geographic location.

Proposal Changes the Following Existing Rules: The existing rules allow for different payment methods and rules based on the geographic location of the provider. Based on an agency study and other staff work, the existing rules do not provide equity for all providers. Therefore, the revisions seek to clarify the department's reimbursement methodology as well as coverage and payment policies so that all providers are treated equitably regardless of their geographic location.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Since these rule changes have no economic impact on Washington state providers, there is no small business economic impact for Washington businesses.

This memo is in regards to the economic impact of the department's proposed changes to the rules for reimbursement to providers outside of Washington state who provide health care services to injured Washington state workers. The primary reasons for the changes to chapters 296-20, 296-21, and 296-23A WAC is to provide equity between Washington state health care providers and out-of-state providers. Current rules allow for different payment methods and rules based on the geographic location of the provider. The proposed changes clarify the department's coverage and payment policies as well as its reimbursement methodology so that all providers are treated equally regardless of geographic location.

New rules and rule amendments must meet the requirements of the Regulatory Fairness Act (RFA), chapter 19.85 RCW, and the Administrative Procedure Act (APA), chapter 34.05 RCW. One of the requirements of the RFA is that the economic impact of proposed regulations on small businesses be examined relative to their impact on large businesses. The agency must prepare a small business economic impact statement (SBEIS) when a proposed rule, or rule amendments, have the potential of placing a more than minor economic impact on business. A related requirement in the APA demands an evaluation of the probable costs and benefits of a proposed regulation and that these probable benefits exceed the probable costs: Process referred to as a cost-benefit analysis (CBA).

A number of criteria and exemptions were established for both the SBEIS analysis and the CBA analysis. The RFA directs an agency to carry out an SBEIS if a rule or proposed rule change "will impose more than minor costs on businesses in an industry." An industry is defined as "all of the businesses in this state in any one four-digit standard industrial classification as published by the United States department of commerce." Because the businesses impacted by this rule are outside of Washington state the department is not required to conduct an SBEIS for the proposed rule change. For a similar reason the department is also exempt from carrying out the CBA portion of the APA.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Auditorium, Department of Labor and Industries, 7273 Linderson Way S.W., Tumwater, WA, on March 22, 2000, at 2 to 4 p.m.

Assistance for Persons with Disabilities: Contact Evonne Peryea by March 15, 2000.

Submit Written Comments to: Evonne Peryea, Department of Labor and Industries, P.O. Box 44322, Olympia, WA 98504-4322, fax (360) 902-4249, by March 29, 2000.

Date of Intended Adoption: April 18, 2000.

February 16, 2000

Gary Moore  
Director

#### NEW SECTION

**WAC 296-20-12401 Provider application process. (1) How can a provider obtain a provider account number from the department?** In order to receive a provider account number from the department, a provider must:

- Complete a provider application;
- Sign a provider agreement;
- Provide a copy of any practice or other license held;
- Complete, sign and return a Form W-9; and
- Meet the department's provider eligibility requirements as cited in the department's rules.

Notes: A provider account number is required to receive payment from the department, but is not a guarantee of payment for services.

Self-insured employers may have additional requirements for provider status.

#### **(2) Provider account status definitions.**

- Active - account information is current and provider is eligible to receive payment.
- Inactive - account is not eligible to receive payment based on action by the department or at provider request. These accounts can be reactivated.
- Terminated - account is not eligible to receive payment based on action by the department or at provider request. These accounts can not be reactivated.

**(3) When may the department inactivate a provider account?** The department may inactivate a provider account when:

- There has been no billing activity on the account for eighteen months; or
- The provider requests inactivation; or

- Provider communications are returned due to address changes; or
- The department changes the provider application or application procedures; or
- Provider does not comply with department request to update information.

(4) **When may the department terminate a provider account?** The department may terminate a provider account when:

- The provider is found ineligible to treat per department rules; or
- The provider requests termination; or
- The provider dies or is no longer in active business status.

(5) **How can a provider reactivate a provider account?** To reactivate a provider account, the provider may call or write the department. The department may require the provider to update the provider application and/or agreement or complete other needed forms prior to reactivation. Account reactivation is subject to department review.

If a provider account has been terminated, a new provider application will be required.

**AMENDATORY SECTION** (Amending WSR 90-04-057, filed 2/2/90, effective 3/5/90)

**WAC 296-20-022 Payment of out-of-state providers.**

~~((1) Beginning February 1, 1987, providers of health services in the bordering states of Oregon and Idaho shall bill and be paid according to the medical aid rules of the state of Washington:~~

~~(2) Providers of health services in other states and other countries shall be paid at rates which take into account:~~

- ~~(a) Payment levels allowed under the state of Washington medical aid rules;~~
- ~~(b) Payment levels allowed under workers compensation programs in the provider's place of business; and~~
- ~~(c) The usual, customary, and reasonable charges in the provider's state of business.~~

~~(3) In all cases these payment levels are the maximum allowed to providers of health services to workers. Should a health services provider's charge exceed the payment amount allowed under the state of Washington medical aid rules, the provider is prohibited from charging the injured worker for the difference between the provider's charge and the allowable rate. Providers violating this provision are ineligible to treat injured workers as provided by WAC 296-20-015 and are subject to other applicable penalties.~~

~~(4) Only those diagnostic and treatment services authorized under the state of Washington medical aid rules may be allowed by the department or self-insurer. As determined by the department of labor and industries, the scope of practice of providers in bordering states may be recognized for payment purposes, except that in all cases WAC 296-20-03002 (Treatment not authorized) shall apply. Specifically, services permitted under workers compensation programs in the provider's state or country of business, but which are not allowed under the medical aid rules of the state of Washington, may~~

~~not be reimbursed. When in doubt, the provider should verify coverage of a service with the department or self-insurer.~~

~~(5) Out-of-state hospitals will be paid according to WAC 296-23A-165-)) (1) How will health care providers outside of Washington state be paid? All health care service providers, regardless of their geographic location, will be paid according to the fee schedule rules, rates, coverage and payment policies as published in the Washington state *Medical Aid Rules and Fee Schedules* and/or provider bulletins.~~

~~(2) Can an injured worker be charged for services? In all cases, the department's maximum allowed fees and payment levels are the maximum payable. If a provider's charge exceeds the maximum amount payable under the department's *Medical Aid Rules and Fee Schedules*, the provider must not charge the injured worker for the difference. A provider violating this provision may be held ineligible to treat injured workers as provided by department rules and may be subject to other applicable penalties.~~

Exception:

When a provider treats an injured worker for condition(s) unrelated to the worker's accepted industrial injury or illness, the provider may bill the worker or other insurers for the unrelated services only.

~~(3) What services will be paid to providers outside of Washington? Only those diagnostic and treatment services authorized under the state of Washington medical aid rules, fee schedules, payment policies, or medical coverage decisions may be authorized or paid by the department or self-insurer. As determined by the department of labor and industries, the scope of practice of providers outside the state of Washington may be recognized for payment purposes. However, in all cases WAC 296-20-03002 (Treatment not authorized) shall apply. Specifically, services not authorized under Washington workers compensation rules, fee schedules, payment policies, or medical coverage decisions will not be paid, even if permitted under workers compensation program in the provider's state or country of business. When in doubt, the provider should verify coverage of a service with the department or self-insurer.~~

**AMENDATORY SECTION** (Amending WSR 93-16-072, filed 8/1/93, effective 9/1/93)

**WAC 296-21-290 Physical medicine.** ~~((The department or self-insurer will authorize and pay for physical medicine services only when the services are under the direct, continuous supervision of a physician who is "board qualified" in the field of physical medicine and rehabilitation; (except for subsections (1) and (2) of this section). The services must be carried out by the physician or registered physical therapist or a physical therapist assistant serving under the direction of a registered physical therapist, by whom he is employed.~~

~~The department or self-insurer will allow other licensed physicians to provide physical medicine modalities in the following situations:~~

- ~~(1) The primary attending physician may administer physical therapist modalities as listed under 97010-97039~~

and/or procedures as listed under 97110-97145 in the office. No more than six such visits will be authorized and paid to the attending physician. If the worker requires treatment beyond six visits, he/she must be referred to a registered physical therapist or a physiatrist for such treatment. The attending physician can bill an office visit in addition to the physical therapy visit for the same day if indicated. Refer to the department billing instructions regarding how to bill the physical therapy portion of the visit.

(2) In remote areas, where no registered physical therapist or physical therapist assistant is available, treatment by the attending physician with modalities listed under 97110-97145 may be billed under 1044M.

The codes, reimbursement levels, and other policies for physical medicine services are listed in the fee schedules.))

**(1) Whom does the department authorize and pay for physical medicine or physical therapy services?** The department or self-insurer may authorize and pay for physical medicine services from the following providers:

- A medical or osteopathic physician who is "board certified or board qualified" in the field of physical medicine and rehabilitation; or

- A licensed physical therapist; or

- The injured worker's attending doctor, within the limitations listed below.

The physical medicine services must be personally performed by the:

- Physical medicine and rehabilitation physician; or

- Attending doctor; or

- Licensed physical therapist; or

- Physical therapist assistant employed by and serving under the direction of a registered physical therapist, physical medicine and rehabilitation physician, or attending doctor.

**Note:** Licensed physical therapy provider rules are contained in chapter 296-23 WAC.

**(2) When may the department or self-insurer pay the attending doctor for physical medicine services?** The department or self-insurer may pay the attending doctor to provide physical medicine modalities and/or procedures in the following situations:

(a) The attending doctor's scope of practice includes physical medicine modalities and procedures.

(b) Only the physical medicine modalities and procedures allowed under the department's fee schedules and payment policies will be authorized or paid.

(c) No more than six physical medicine visits may be authorized and paid to the attending doctor. If the worker requires treatment beyond six visits, the worker must be referred to a licensed physical therapist or a board certified or qualified physical medicine and rehabilitation physician for such treatment. Payments will be made in accordance with the department's fee schedules and payment policies.

(d) In remote areas, where no physical medicine and rehabilitation specialist, licensed physical therapist or physical therapist assistant is available, physical medicine visits required by the patient's accepted condition(s) may be authorized and paid to the attending doctor. Payments will be

made in accordance with the department's fee schedules and payment policies.

(e) The attending doctor may bill for office visits in addition to the physical medicine services only when a separately identifiable office visit service is provided in addition to the physical medicine service.

**(3) What codes and fees are payable for physical medicine services?**

- The codes, reimbursement levels, and other policies for physical medicine services are listed in the department's *Medical Aid Rules and Fee Schedules*. Physicians licensed in physical medicine and licensed physical therapists use CPT and/or HCPCS codes, rules and payment policies as listed in the department's *Medical Aid Rules and Fee Schedules* or provider bulletins.

- Attending doctors must use the local codes, rules and payment policies published in the department's *Medical Aid Rules and Fee Schedules* or provider bulletins.

**AMENDATORY SECTION** (Amending WSR 97-06-066, filed 2/28/97, effective 4/1/97)

**WAC 296-23A-0230 How does the department or self-insurer pay out-of-state hospitals for hospital services?** The department or self-insurer pays out-of-state hospitals for hospital services using a percent of allowed charges (POAC) factor or department fee schedule. The POAC factor may differ for services performed in inpatient and outpatient settings. ((The department or self-insurer will pay out-of-state hospitals according to the following table:)) Payment rates to hospitals located outside of Washington state are calculated by multiplying the out-of-state percent of allowed charges factor (POAC) by the allowed charges.

Amount paid = (out-of-state POAC Factor) X (Allowed Charges).

Out-of-state hospital providers should bill and the department or self-insurer will pay out-of-state hospitals services according to the following table:



<i>((Hospital Location (State))</i>	<i>Hospital Outpatient Services</i>	<i>Hospital Inpatient Services</i>
Oregon and Idaho	Hospital outpatient radiology, pathology and laboratory, and physical therapy services are to be billed and will be paid using the appropriate Labor and Industries fee scheduled procedure codes.  All other hospital outpatient services will be paid at the Washington state-wide average percent of allowed charges (POAC) factor.	Washington state-wide average percent of allowed charges (POAC) factor.
Hospitals not in Oregon, Idaho or Washington	Hospital outpatient radiology, pathology and laboratory, and physical therapy services are paid 100% of allowed charges.  All other hospital outpatient services are paid 97% of allowed charges.	97% of allowed charges.))

PROPOSED

<i>Hospital Professional and Ambulance Services</i>	<i>Hospital Outpatient Services</i>	<i>Hospital Inpatient Services</i>
<u>Professional and ambulance services should be billed with CPT and HCPCS codes on HCFA 1500 forms under separate provider numbers. These services will be paid using the fee schedule rates and payment policies stated in the Washington Medical Aid Rules and Fee Schedules.</u>	<u>All hospital outpatient services should be billed on UB forms under the hospital provider number with revenue codes. These services will be paid at the out-of-state percent of allowed charges (POAC) factor as stated in the Washington Medical Aid Rules and Fee Schedules.</u>	<u>All hospital inpatient services should be billed on UB forms under the hospital provider number using revenue codes. These services will be paid at the out-of-state percent of allowed charges (POAC) factor as stated in the Washington Medical Aid Rules and Fee Schedules.</u>
<u>Military and veteran's administration professional and ambulance services should be billed on HCFA 1500 forms and will be paid at 100% of allowed charges.</u>	<u>Military, veteran's administration, health maintenance organization, children's, and state-run psychiatric hospitals will be paid at 100% of allowed charges for outpatient hospital services.</u>	<u>Military, veteran's administration, health maintenance organization, children's, and state-run psychiatric hospitals will be paid at 100% of allowed charges for inpatient hospital services.</u>

**WSR 00-05-112**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed February 16, 2000, 11:43 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-01-189.

Title of Rule: Medical aid rules: Updates for WAC 296-20-135, 296-23-220, and 296-23-230.

Purpose: Update department payment rates allowed to health care providers (RBRVS and anesthesiology rates and PT/OT payment caps) in light of current year's conversion factor and cost of living adjustments.

Statutory Authority for Adoption: RCW 51.04.020(1) and 51.04.030.

Statute Being Implemented: Chapter 51.36 RCW.

Summary: (1) Change conversion factor used to calculate reimbursement levels for services payable through the resource based relative value scale (RBRVS) fee schedule.

(2) Change conversion factor used to calculate reimbursement for anesthesia services.

(3) Increase the physical and occupational therapy daily maximum rates.

Reasons Supporting Proposal: Update provider reimbursement rates.

Name of Agency Personnel Responsible for Drafting: Tom Davis, Tumwater, Washington, (360) 902-6687; Implementation and Enforcement: Doug Connell, Assistant Director, Tumwater, Washington, (360) 902-4209.

Name of Proponent: [Department of Labor and Industries], governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The changes increase reimbursement to affected

health care providers. The purpose and anticipated effect of these proposed changes are to:

(1) Change (decrease) the conversion factor used to calculate maximum reimbursement levels for services reimbursed under the resource based relative value scale (RBRVS) fee schedule. The proposed decrease adjusts the conversion factor to accommodate changes in the service codes and relative value units which are used to calculate reimbursement levels and grants an 8.59% cost of living increase to RBRVS providers.

(2) Change (increase) the conversion factor used to calculate maximum reimbursement for anesthesia services. The proposed increase resulted from rebasing the conversion factor using newer anesthesia base values. In addition, add language reflecting the conversion factor in fifteen minute increments.

(3) Apply a 8.33% cost of living increase to the maximum daily rate for physical and occupational therapy services.

Proposal Changes the Following Existing Rules: In WAC 296-20-135(2), decrease the RBRVS conversion factor from \$47.12 to \$47.07.

In WAC 296-20-135(3), increase the anesthesia conversion factor from \$2.13 to \$2.60 and add language converting this amount to fifteen minute increments, \$39.00 per fifteen minutes.

In WAC 296-23-220 and 296-23-230, increase the maximum daily rate for physical and occupational therapy services from \$84.00 to \$91.00.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule adoption is exempt under RCW 34.05.328 (5)(b)(vi) and 19.85.025(3).

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 does not apply because the content of this rule is explicitly dictated by statute and fits within the exceptions listed in RCW 34.05.328 [(5)](b)(vi).

Hearing Location: Department of Labor and Industries, 7273 Linderson Way S.W., Tumwater, WA, on March 22, 1999 [2000], at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Tom Davis by March 15, 2000, TDD 1-800-833-6388.

Submit Written Comments to: Tom Davis, fax (360) 902-4249, by March 31, 2000.

Date of Intended Adoption: April 18, 1999 [2000].

February 16, 2000

Gary Moore  
Director

**AMENDATORY SECTION** (Amending WSR 99-10-043, filed 4/30/99, effective 7/1/99)

**WAC 296-20-135 Conversion factors.** (1) Conversion factors are used to calculate payment levels for services reimbursed under the Washington resource based relative value scale (RBRVS), and for anesthesia services payable with base and time units.

(2) **Washington RBRVS** services have a conversion factor of (~~(\$47.12)~~) \$47.07. The fee schedules list the reimbursement levels for these services.

(3) **Anesthesia services** that are paid with base and time units have a conversion factor of (~~(\$2.13)~~) \$2.60 per minute, which is equivalent to \$39.00 per 15 minutes. The base units and payment policies can be found in the fee schedules.

**AMENDATORY SECTION** (Amending WSR 99-10-043, filed 4/30/99, effective 7/1/99)

**WAC 296-23-220 Physical therapy rules.** Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 regarding the use of conversion factors.

All supplies and materials must be billed using HCPCS Level II codes. Refer to chapter 296-21 WAC for additional information. HCPCS codes are listed in the fee schedules.

Refer to chapter 296-20 WAC (WAC 296-20-125) and to the department's billing instructions for additional information.

Physical therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed physical therapist or a physical therapist assistant serving under the direction of a licensed physical therapist. Doctors rendering physical therapy should refer to WAC 296-21-290.

The department or self-insurer will review the quality and medical necessity of physical therapy services provided to workers. Practitioners should refer to WAC 296-20-01002 for the department's rules regarding medical necessity and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department or self-insurer will pay for a maximum of one physical therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or (~~(\$84.00)~~) \$91.00 whichever is less. These limits will not apply to physical therapy that is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for physical therapists who render care to workers.

Use of diapulse or similar machines on workers is not authorized. See WAC 296-20-03002 for further information.

A physical therapy progress report must be submitted to the attending doctor and the department or the self-insurer following twelve treatment visits or one month, whichever occurs first. Physical therapy treatment beyond initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

Physical therapy services rendered in the home and/or places other than the practitioner's usual and customary office, clinic, or business facilities will be allowed only upon prior authorization by the department or self-insurer.

PROPOSED

No inpatient physical therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Biofeedback treatment may be rendered on doctor's orders only. The extent of biofeedback treatment is limited to those procedures allowed within the scope of practice of a licensed physical therapist. See chapter 296-21 WAC for rules pertaining to conditions authorized and report requirements.

Billing codes and reimbursement levels are listed in the fee schedules.

**AMENDATORY SECTION** (Amending WSR 99-10-043, filed 4/30/99, effective 7/1/99)

**WAC 296-23-230 Occupational therapy rules.** Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 for information regarding the conversion factors.

All supplies and materials must be billed using HCPCS Level II codes, refer to the department's billing instructions for additional information.

Occupational therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed occupational therapist or an occupational therapist assistant serving under the direction of a licensed occupational therapist. Vocational counselors assigned to injured workers by the department or self-insurer may request an occupational therapy evaluation. However, occupational therapy treatment must be ordered by the worker's attending doctor.

An occupational therapy progress report must be submitted to the attending doctor and the department or self-insurer following twelve treatment visits or one month, whichever occurs first. Occupational therapy treatment beyond the initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

The department or self-insurer will review the quality and medical necessity of occupational therapy services. Practitioners should refer to WAC 296-20-01002 for the department's definition of medically necessary and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department will pay for a maximum of one occupational therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or ~~(\$84.00)~~ \$91.00 whichever is less. These limits will not apply to occupational therapy which is rendered as part of a physical capacities evaluation, work hardening program, or

pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for occupational therapists who render care to workers.

Occupational therapy services rendered in the worker's home and/or places other than the practitioner's usual and customary office, clinic, or business facility will be allowed only upon prior authorization by the department or self-insurer.

No inpatient occupational therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Billing codes, reimbursement levels, and supporting policies for occupational therapy services are listed in the fee schedules.

PROPOSED



**WSR 00-05-015**  
**EXPEDITED ADOPTION**  
**DEPARTMENT OF REVENUE**

[Filed February 7, 2000, 2:03 p.m.]

Title of Rule: WAC 458-20-239 Sales to nonresidents of farm machinery or implements.

Purpose: Rule 239 explains the retail sales tax exemption provided for sales of machinery and implements to nonresidents for use in farming activities outside the state of Washington.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: RCW 82.08.0268.

Summary: Rule 239 describes the application of the exemption found in RCW 82.08.0268 for sales to nonresidents of farm machinery and implements. It explains the requirements that must be met and the documents that must be retained to substantiate a claim for exemption.

Reasons Supporting Proposal: To reflect the amendment to RCW 82.08.0268 by chapter 167, Laws of 1998, which expanded the retail sales tax exemption for farm machinery and implements purchased by nonresidents for use outside the state.

Name of Agency Personnel Responsible for Drafting: D. Douglas Titus, 711 Capitol Way South, #303, Olympia, WA, (360) 664-0687; Implementation: Claire Hesselholt, 711 Capitol Way South, #303, Olympia, WA, (360) 753-3446; and Enforcement: Russell W. Brubaker, 711 Capitol Way South, #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: Rule 239 explains the retail sales tax exemption provided by RCW 82.08.0268. This exemption applies to sales of machinery and implements to nonresidents for use in a farming activity outside the state of Washington. The rule explains the conditions that must be satisfied for the exemption to apply, and provides a sample exemption certificate to be used to substantiate the exempt nature of a sale.

The rule is being revised to incorporate chapter 167, Laws of 1998. This legislation expanded the retail sales tax exemption to include parts for machinery and implements for use in conducting a farming activity, and labor and services for the repair of the machinery, implements, and parts.

The rule is also being revised to recognize that the exempt nature of a sale can be documented using the department's "buyer's retail sales tax exemption certificate." The proposed rule explains how a copy of this exemption certificate can be obtained.

Proposal Changes the Following Existing Rules: This is an amendment of an existing rule, WAC 458-20-239 Sales to nonresidents of farm machinery and implements. This rule is being revised to reflect the expansion of the statutory exemption provided by RCW 82.08.0268 (chapter 167, Laws of 1998), as described above.

**NOTICE**

THIS RULE IS BEING PROPOSED TO BE  
 ADOPTED USING AN EXPEDITED RULE-MAKING

PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO D. Douglas Titus, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail dougt@dor.wa.gov, AND RECEIVED BY April 18, 2000.

April [February] 7, 2000

Claire Hesselholt

Rules Manager

Legislation and Policy Division

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

**WAC 458-20-239 Sales to nonresidents of farm machinery or implements, and related services.**

~~((Business and Occupation Tax~~

~~In computing tax under the retailing classification, no exemption or deduction is allowed by reason of the fact that farm machinery or implements are sold to nonresidents for use outside this state when delivery is made in this state.~~

**Retail Sales Tax**

~~Under RCW 82.08.0268 an exemption from retail sales tax is allowed in respect to sales to nonresidents of this state of machinery and implements for use in conducting a farming activity outside this state, when such machinery and implements are transported outside the state immediately after sale. This exemption is allowed even though the goods sold are delivered to the purchaser in this state, but only where the seller receives from the buyer an exemption certificate as hereinafter provided and examines acceptable proof that the buyer is a resident of a state or country other than the state of Washington. The exemption certificate should be in substantially the following form and is to be retained by the seller as a part of his records. Each sale claimed exempt must be supported by a separately executed certificate. Certificates for other or prior transactions or "blanket" certificates are not acceptable.~~

~~Exemption Certificate~~

~~I, (printed or typed name of purchaser) hereby certify: That I am a bona fide resident of the state of            and my address is (street and number or box and route), (city, town or post office), (state). That on (date) I purchased from (seller) the following machinery or implements:~~

**Exemption Certificate**

~~\_\_\_\_ (name or description) (brand) (model) That the machinery or implements named above are purchased for my use in conducting a farming activity at \_\_\_\_ (address) \_\_\_\_, and the date of transporting the same outside the state of Washington is \_\_\_\_ (month, day and year) \_\_\_\_~~

.....  
(date) (signature of purchaser)

**Certification of Dealer**

I hereby certify that I personally examined the following items of documentary evidence submitted by the above purchaser which show his residence to be the state of.....:

- ... Payroll or W-2 Forms
- ... Driver's License
- ... Fishing or Hunting License
- ... Voter's Registration Card
- ... Copies of Conditional Sales Contracts
- ... Copies of Income Tax Returns

.....  
(signature of dealer or representative) (Dealer's registration number with Department of Revenue)

.....  
title officer or agent))

(1) Introduction. This rule explains the retail sales tax exemption provided by RCW 82.08.0268 for sales to nonresidents of farming machinery and implements, parts for farming machinery and implements, and related labor and services. The rule also explains the documents that must be preserved to substantiate a claim of exemption. Sellers should refer to WAC 458-20-193 if they deliver farm machinery or implements to the purchaser at an out-of-state location.

(2) Tax-reporting requirements. Retailing B&O and retail sales taxes generally apply to all sales of tangible personal property, parts, and repair labor in Washington.

(a) RCW 82.08.0268 provides an exemption from retail sales tax for sales to nonresidents of the following when used in conducting a farm activity outside the state of Washington:

- (i) Machinery and implements;
- (ii) Parts for machinery and implements; and
- (iii) Labor and services for repair of machinery, implements, and parts.

(b) To qualify for the exemption, the machinery, implements, or parts must be transported outside the state immediately after sale or completion of the repair or service. Prior to June 11, 1998, the exemption applied only to farm machinery and implements, and repair parts and components if attached

to the machinery or implements. The exemption did not apply to labor and services.

(c) This exemption is allowed even though the property sold or serviced is delivered to the purchaser in this state, but only when the seller receives from the buyer an exemption certificate, and examines acceptable proof that the buyer is a resident of a state or country other than the state of Washington.

(d) The exempt nature of the transaction must be documented by using the department's "buyer's retail sales tax exemption certificate," or another certificate with substantially the same information as it relates to the exemption provided by RCW 82.08.0268. The certificate must be completed in its entirety, and retained by the seller.

A blank certificate can be obtained via the Internet at <http://dor.wa.gov>, by facsimile by calling Fast Fax at (360) 786-6116 or (800) 647-7706 (using menu options), or by writing to Taxpayer Services, Washington State Department of Revenue, Post Office Box 47478, Olympia, Washington 98504-7478. If, prior to completion of the sale, the seller becomes aware of any information inconsistent with the purchaser's claim of residency, such as a Washington address on a credit application, the seller should not accept an exemption certificate.

**WSR 00-05-016**  
**EXPEDITED ADOPTION**  
**OFFICE OF**  
**FINANCIAL MANAGEMENT**  
(Filed February 7, 2000, 2:45 p.m.)

Title of Rule: Setting official pay dates for 2001.

Purpose: To establish official pay dates for state officers and employees for calendar year 2001.

Statutory Authority for Adoption: RCW 42.16.010(1) and 42.16.017.

Statute Being Implemented: RCW 42.16.010(1) and 42.16.017.

Summary: This proposed rule making amends WAC 82-50-021 by establishing pay dates for state officers and employees for calendar year 2001 and removing now obsolete pay dates for calendar year 1999.

Reasons Supporting Proposal: Statute requires that the Office of Financial Management annually update and publish pay dates.

Name of Agency Personnel Responsible for Drafting: Millie Lund, 6639 Capitol Boulevard, Tumwater, (360) 664-7678; Implementation and Enforcement: Wendy Jarrett, 6639 Capitol Boulevard, Tumwater, (360) 664-7675.

Name of Proponent: Office of Financial Management, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 82-50-021 exists to publish the official lagged, semi-monthly pay dates for state officers and employees. This section of WAC, which provides pay dates for the current and ensuing calendar years, is amended each

EXPEDITED ADOPTION

year to add pay dates for the ensuing calendar year and delete the obsolete pay dates for the previous year.

Proposal Changes the Following Existing Rules: Official lagged, semi-monthly pay dates for calendar year 2001 are added and the now obsolete pay dates for calendar year 1999 are deleted.

**NOTICE**

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Lynne McGuire, Office of Financial Management, P.O. Box 43113, Olympia, WA 98504-3113, AND RECEIVED BY April 17, 2000.

February 7, 2000  
Lynne McGuire  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 99-12-081, filed 5/28/99, effective 6/28/99)

**WAC 82-50-021 Official lagged, semimonthly pay dates established.** Unless exempted otherwise under the provisions of WAC 82-50-031, the salaries of all state officers and employees are paid on a lagged, semimonthly basis for the official twice-a-month pay periods established in RCW 42.16.010(1). The following are the official lagged, semimonthly pay dates for calendar years ~~((1999 and 2000))~~ 2000 and 2001:

- ~~((CALENDAR YEAR 1999~~
- ~~Monday, January 11, 1999~~
- ~~Monday, January 25, 1999~~
- ~~Wednesday, February 10, 1999~~
- ~~Thursday, February 25, 1999~~
- ~~Wednesday, March 10, 1999~~
- ~~Thursday, March 25, 1999~~
- ~~Friday, April 9, 1999~~
- ~~Monday, April 26, 1999~~
- ~~Monday, May 10, 1999~~
- ~~Tuesday, May 25, 1999~~
- ~~Thursday, June 10, 1999~~
- ~~Friday, June 25, 1999~~
- ~~Friday, July 9, 1999~~
- ~~Monday, July 26, 1999~~
- ~~Tuesday, August 10, 1999~~
- ~~Wednesday, August 25, 1999~~
- ~~Friday, September 10, 1999~~
- ~~Friday, September 24, 1999~~
- ~~Friday, October 8, 1999~~
- ~~Monday, October 25, 1999~~
- ~~Wednesday, November 10, 1999~~
- ~~Wednesday, November 24, 1999~~

- CALENDAR YEAR 2000
- Monday, January 10, 2000
- Tuesday, January 25, 2000
- Thursday, February 10, 2000
- Friday, February 25, 2000
- Friday, March 10, 2000
- Friday, March 24, 2000
- Monday, April 10, 2000
- Tuesday, April 25, 2000
- Wednesday, May 10, 2000
- Thursday, May 25, 2000
- Friday, June 9, 2000
- Monday, June 26, 2000
- Monday, July 10, 2000
- Tuesday, July 25, 2000
- Thursday, August 10, 2000
- Friday, August 25, 2000
- Monday, September 11, 2000
- Monday, September 25, 2000
- Tuesday, October 10, 2000
- Wednesday, October 25, 2000
- Thursday, November 9, 2000
- Wednesday, November 22, 2000

- ~~((CALENDAR YEAR 1999~~
- ~~Friday, December 10, 1999~~
- ~~Thursday, December 23, 1999~~

- CALENDAR YEAR 2000
- Monday, January 10, 2000
- Tuesday, January 25, 2000
- Thursday, February 10, 2000
- Friday, February 25, 2000
- Friday, March 10, 2000
- Friday, March 24, 2000
- Monday, April 10, 2000
- Tuesday, April 25, 2000
- Wednesday, May 10, 2000
- Thursday, May 25, 2000
- Friday, June 9, 2000
- Monday, June 26, 2000
- Monday, July 10, 2000
- Tuesday, July 25, 2000
- Thursday, August 10, 2000
- Friday, August 25, 2000
- Monday, September 11, 2000
- Monday, September 25, 2000
- Tuesday, October 10, 2000
- Wednesday, October 25, 2000
- Thursday, November 9, 2000
- Wednesday, November 22, 2000
- Monday, December 11, 2000
- Friday, December 22, 2000

- CALENDAR YEAR 2000
- Monday, December 11, 2000
- Friday, December 22, 2000

- CALENDAR YEAR 2001
- Wednesday, January 10, 2001
- Thursday, January 25, 2001
- Friday, February 9, 2001
- Monday, February 26, 2001
- Friday, March 9, 2001
- Monday, March 26, 2001
- Tuesday, April 10, 2001
- Wednesday, April 25, 2001
- Thursday, May 10, 2001
- Friday, May 25, 2001
- Monday, June 11, 2001
- Monday, June 25, 2001
- Tuesday, July 10, 2001
- Wednesday, July 25, 2001
- Friday, August 10, 2001
- Friday, August 24, 2001
- Monday, September 10, 2001
- Tuesday, September 25, 2001
- Wednesday, October 10, 2001
- Thursday, October 25, 2001
- Friday, November 9, 2001
- Monday, November 26, 2001
- Monday, December 10, 2001
- Monday, December 24, 2001

**WSR 00-05-090**  
**EXPEDITED ADOPTION**  
**DEPARTMENT OF AGRICULTURE**  
(Blueberry Commission)  
[Filed February 16, 2000, 8:50 a.m.]

Title of Rule: WAC 16-550-020 (10)(g), Blueberry Commodity Board, powers and duties of the board.

Purpose: To revise the auditing schedule of the Blueberry Commission's records, books and accounts from an annual audit to an audit of at least once very five years as provided for under RCW 15.65.490.

Statutory Authority for Adoption: RCW 15.65.050.  
Statute Being Implemented: Chapter 15.65 RCW.

Summary: The rule revision will eliminate the annual audit requirement of the commission and provide consistency between RCW 15.65.490 and the blueberry marketing order.

Reasons Supporting Proposal: An annual audit of the commission's records, books and accounts is not necessary and would allow the commission and the state auditor's office to establish a more efficient schedule in auditing the commission. A more flexible schedule would reduce costs to the commissions.

Name of Agency Personnel Responsible for Drafting: Walter Swenson, 1111 Washington Street, Natural Resources Building, 2nd Floor, Olympia, WA, (360) 902-1928; Implementation and Enforcement: Washington Blueberry Com-

EXPEDITED ADOPTION

mission, 15903 Bow Hill Road, Bow, WA, 98232, (360) 766-6150.

Name of Proponent: Washington Blueberry Commission, private.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The Washington State Department of Agricultural supports the flexible audit schedule for the commission to reduce unnecessary cost to the commission.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule change will eliminate the annual audit requirement of the Blueberry Commission and bring the rule establishing the commission consistent with other commissions formed under chapter 15.65 RCW, Agricultural Enabling Act of 1961. The rule change will reduce the cost to the Washington Blueberry Commission.

Proposal Changes the Following Existing Rules: The proposed change will eliminate the annual audit requirement of the commission and allow the commission to establish an audit schedule of at least once every five years subject to methods and procedures of the state auditor's office.

#### NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Walter Swenson, Washington Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, AND RECEIVED BY April 17, 2000.

February 16, 2000

William E. Brookreson  
Deputy Director

AMENDATORY SECTION (Amending Order 002, filed 6/6/89)

**WAC 16-550-020 Blueberry commodity board.** (1) **Administration.** The provisions of this order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) **Board membership.**

(a) The board shall consist of seven members. Six members shall be affected producers elected as provided in this article. The director shall appoint one member of the board who is neither an affected producer nor a handler to represent the department and the public.

(b) For the purpose of nomination and election of producer members of the board, the affected area shall be the entire state of Washington.

(3) **Board membership qualifications.** The affected producer members of the board shall be practical producers

of blueberries and shall be citizens and residents of the state of Washington, over the age of twenty-five years, each of whom is and has been actually engaged in producing blueberries within the state of Washington for a period of five years and has, during that time, derived a substantial portion of his income therefrom and who is not engaged in business, directly or indirectly, as a handler or other dealer.

(4) **Term of office.**

(a) The term of office for members of the board shall be three years and one-third of the membership as nearly as possible shall be elected each year.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through six and the member appointed by the director position seven.

(c) The term of office for the initial board members shall be as follows:

Positions one and two - until June 30, 1970

Positions three and four - until June 30, 1971

Positions five, six and seven - until June 30, 1972

(5) **Nomination and election of board members.**

(a) Each year the director shall call for a nomination meeting. Such meeting shall be held at least thirty days in advance of the date set by the director for the election of board members. Notice of every such meeting shall be published in a newspaper of general circulation within the major production area not less than ten days in advance of the date of such meeting and, in addition, written notice of every such meeting shall be given to all affected producers according to the list maintained by the director pursuant to RCW 15.65.-200 of the act. Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting. Any qualified affected producer may be nominated orally for membership on the board at such nomination meetings. Nominations may also be made within five days after any such meeting by written petition filed with the director, signed by not less than five affected producers.

(b) At the inception of this order, nominations may be made at the issuance hearing.

(6) **Election of board members.**

(a) Members of the board shall be elected by secret mail ballot within the month of May under the supervision of the director. Affected producer members of the board shall be elected by a majority of the votes cast by the affected producers. Each affected producer shall be entitled to one vote.

(b) If a nominee does not receive a majority of the votes on the first ballot, a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(c) Notice of every election for board membership shall be published in a newspaper of general circulation within the major production area not less than ten days in advance of the date of such election. Not less than ten days prior to every election for board membership, the director shall mail a ballot of the candidates to each affected producer entitled to vote whose name appears upon the list of such affected producers maintained by the director in accordance with RCW 15.65.200. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establish-



ing his qualifications. Nonreceipt of a ballot by any affected producer shall not invalidate the election of any board member.

(7) **Vacancies prior to election.** In the event of a vacancy on the board, the remaining members shall select a qualified person to fill the unexpired term.

(8) **Quorum.** A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) **Board compensation.** No member of the board shall receive any salary except that each member may be compensated in accordance with RCW 43.03.230 and shall be reimbursed for subsistence, lodging, and mileage in accordance with RCW 43.03.050 and 43.03.060, as provided for in RCW 15.65.270.

(10) **Powers and duties of the board.** The board shall have the following powers and duties:

(a) To administer, enforce and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from monies collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration and enforcement of the order. Such expenses and costs may be paid by check, draft or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited with the director in order to defray the costs of formulating the order.

(f) To establish a "blueberry board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board except as the amount of petty cash for each day's needs, not to exceed one hundred dollars, shall be deposited each day or as often during the day as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, paid outs, moneys and other financial transactions made and done pursuant to this order. Such records, books and accounts shall be audited at least ~~(annually)~~ every five years subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year of the state of Washington. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or

employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year.

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books and minutes of board meetings shall be kept at such headquarters.

(k) To adopt rules and regulations of a technical or administrative nature, subject to the provisions of chapter 34.04 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon him by the act or order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements or orders.

(o) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

**(11) Procedures for board.**

(a) The board shall hold regular meetings, at least quarterly, with the time and date thereof to be fixed by resolution of the board.

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days prior to the meeting by written notice to each producer and by regular wire news services and radio-television press.

(c) The board shall establish by resolution, the time, place and manner of calling special meetings of the board with reasonable notice to the members: *Provided*, That the notice of any special meeting may be waived by a waiver thereof by each member of the board.

**WSR 00-05-091**

**EXPEDITED ADOPTION**

**DEPARTMENT OF AGRICULTURE**

(Strawberry Commission)

[Filed February 16, 2000, 8:53 a.m.]

Title of Rule: WAC 16-555-020 (10)(g), Strawberry Commodity Board, powers and duties of the board.

Purpose: To clarify the language in the Strawberry Commission rule to be consistent with the provisions of RCW 15.65.490.

Statutory Authority for Adoption: RCW 15.65.050.

Statute Being Implemented: Chapter 15.65 RCW.

**Summary:** To clarify the language in the Strawberry Commission rule to be consistent with the provisions of RCW 15.65.490.

**Reasons Supporting Proposal:** The proposal will allow the commission and the state auditor's office to establish a more efficient schedule in auditing the commission. A more flexible schedule would reduce costs to the commissions.

**Name of Agency Personnel Responsible for Drafting:** Walter Swenson, 1111 Washington Street, Natural Resources Building, 2nd Floor, Olympia, WA, (360) 902-1928; **Implementation and Enforcement:** Norval Johanson, 4430 John Luhr Road, Olympia, WA 98516, (360) 491-6567.

**Name of Proponent:** Washington Strawberry Commission, private.

**Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters:** The Washington State Department of Agriculture supports the flexible audit schedule for the commission to reduce unnecessary cost to the commission.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** The rule change will establish [establish] the Strawberry Commission rule consistent with other commissions formed under chapter 15.65 RCW, Agricultural Enabling Act of 1961. The rule change will reduce the cost to the Washington Strawberry Commission.

Proposal does not change existing rules. The rule change will not materially change the audit requirements of the commission but brings the rule establishing the commission consistent with other commissions formed under chapter 15.65 RCW, Agricultural Enabling Act of 1961.

#### NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Walter Swenson, Washington Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, AND RECEIVED BY April 17, 2000.

February 16, 2000

William E. Brookreson  
Deputy Director

**AMENDATORY SECTION** (Amending WSR 93-10-063, filed 5/3/93)

**WAC 16-555-020 Strawberry commodity board.** (1) **Administration.** The provisions of this marketing order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) **Board membership.**

(a) The board shall consist of seven members. Six members shall be affected producers elected as provided in this section. The director shall appoint one member who is neither an affected producer nor a handler to represent the department and the public.

(b) For the purpose of nomination and election of producer members of the board, the affected area shall be the state of Washington, and shall be divided into four representative districts as follows:

(i) District I shall have two board members, being Positions 1 and 2, and shall include the counties of Island, San Juan, Skagit, and Whatcom.

(ii) District II shall have two board members, being Positions 3 and 4, and shall include the counties of King, Clallam, Jefferson, Kitsap, Pierce, and Snohomish.

(iii) District III shall have one board member, being Position 5, and shall include the counties of Clark, Cowlitz, Lewis, Pacific, Skamania, Wahkiakum, Grays Harbor, Mason, and Thurston.

(iv) District IV shall have one board member, being Position 6, and shall include the remaining counties in the state of Washington.

(3) **Board membership qualifications.** The affected producer members of the board shall be practical producers of strawberries and shall be citizens and residents of the state of Washington, over the age of twenty-five years, each of whom is and has been actually engaged in producing strawberries within the state of Washington for a period of five years and has, during that time, derived a substantial portion of his/her income therefrom. Producer-handlers shall be considered to be acting only as producers for purpose of election and membership on a commodity board. The qualifications of members of the board as herein set forth must continue during the terms of office.

(4) **Term of office.**

(a) The term of office, for members of the board shall be three years, and one-third of the membership as nearly as possible shall be elected each year.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through six and the member appointed by the director, position seven.

(c) The term of office for the initial board members shall be as follows:

Position one - shall terminate on August 31, 1986;

Positions three and five - shall terminate on August 31, 1987;

Positions two and four - shall terminate on August 31, 1988.

(d) The term of office for the initial board member in Position 6, shall terminate on August 31, 1995.

(5) **Nomination and election of board members.** Each year the director shall call for a nomination meeting. Such meeting shall be held at least thirty days in advance of the date set by the director for the election of board members. Notice of every such meeting shall be published in a newspaper of general circulation within the production area not less than ten days in advance of the date of such meeting; and, in addition, written notice of every such meeting shall be given

to all affected producers according to the list maintained by the director pursuant to RCW 15.65.200 of the act. Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting. Any qualified affected producer may be nominated orally for membership on the board at such nomination meeting. Nominations may also be made within five days after any such meeting by written petition filed with the director, signed by not less than five affected producers. At the inception of this marketing order, nominations may be made at the issuance hearing.

When only one nominee is nominated for any position on the board, the director shall deem that said nominee satisfies the requirements of the position and then it shall be deemed that said nominee has been duly elected.

**(6) Election of board members.**

(a) Members of the board shall be elected by secret mail ballot within the month of May under the supervision of the director. Affected producer members of the board shall be elected by a majority of the votes cast by the affected producers. Each affected producer shall be entitled to one vote.

(b) If a nominee does not receive a majority of the votes on the first ballot, a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(c) Notice of every election for board membership shall be published in a newspaper of general circulation within the production area not less than ten days in advance of the date of such election. Not less than ten days prior to every election for board membership, the director shall mail a ballot of the candidates to each affected producer entitled to vote whose name appears on the list of such affected producers maintained by the director in accordance with RCW 15.65.200. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing his/her qualifications. Nonreceipt of a ballot by any affected producer shall not invalidate the election of any board members.

**(7) Vacancies prior to election.** In the event of a vacancy on the board, the remaining members shall select a qualified person to fill the unexpired term.

**(8) Quorum.** A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

**(9) Board compensation.** No member of the board shall receive any salary or other compensation, but each member may be compensated for each day in actual attendance at or traveling to and from meetings of the board or on special assignment for the board, together with travel expenses at the rates allowed state employees.

**(10) Powers and duties of the board.** The board shall have the following powers and duties:

(a) To administer, enforce, and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel as the board determines necessary and proper to carry out the purpose of the marketing order and effectuate the declared policies of the act.

(d) To pay from moneys collected as assessments, contributions, or advances thereon the costs arising in connection with the formulation, issuance, administration, and enforcement of the marketing order. Such expenses and costs may be paid by check, draft, or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited with the director in marketing order to defray the costs of formulating the marketing order.

(f) To establish a "strawberry board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except as the amount of petty cash for each day's needs, shall be deposited each day or as often as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, paid outs, moneys, and other financial transactions made and done pursuant to this order. Such records, books, and accounts shall be audited at least every five years subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each calendar year. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor, and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each calendar year.

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books, and minutes of board meetings shall be kept at such headquarters.

(k) To adopt rules and regulations of a technical or administrative nature, subject to the provisions of chapter 34.05 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the marketing order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction, or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon him by the act or the marketing order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements, or orders.

(o) To authorize the members of the board, or their agents or designees, to participate in federal or state hearings or other proceedings concerning regulation of the manufacture, distribution, sale, or use of any pesticide as defined by RCW 15.58.030(1) or any agricultural chemical which is of use or potential use in producing strawberries, and may authorize the expenditure of commission funds for this purpose.

(p) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

**(11) Procedures for board.**

(a) The board shall hold regular meetings, at least semi-annually, and such meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act).

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days prior to the meeting by written notice to each producer and by regular news services.

(c) The board shall establish by resolution, the time, place, and manner of calling special meetings of the board with reasonable notice to the members: *Provided*, That the notice of any special meeting may be waived by a waiver thereof by each member of the board.

**WSR 00-05-092**

**EXPEDITED ADOPTION**

**DEPARTMENT OF AGRICULTURE**

(Cranberry Commission)

[Filed February 16, 2000, 8:56 a.m.]

Title of Rule: WAC 16-565-020 (10)(h), Cranberry Commodity Board, powers and duties of the board.

Purpose: To revise the auditing schedule of the Cranberry Commission's records, books and accounts from an annual audit to an audit of at least once very five years as provided for under RCW 15.65.490.

Statutory Authority for Adoption: RCW 15.65.050.

Statute Being Implemented: Chapter 15.65 RCW.

Summary: The rule revision will eliminate the annual audit requirement of the commission and provide consistency between RCW 15.65.490 and the cranberry marketing order.

Reasons Supporting Proposal: An annual audit of the commission's records, books and accounts is not necessary and would allow the commission and the state auditor's office to establish a more efficient schedule in auditing the commission. A more flexible schedule would reduce costs to the commissions.

Name of Agency Personnel Responsible for Drafting: Walter Swenson, 1111 Washington Street, Natural Resources Building, 2nd Floor, Olympia, WA, (360) 902-1928; Implementation and Enforcement: Washington Cranberry Commission, P.O. Box 597, Grayland, WA 985471 [98547], c/o (360) 902-1928.

Name of Proponent: Washington Cranberry Commission, private.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The Washington State Department of Agriculture supports the flexible audit schedule for the commission to reduce unnecessary cost to the commission.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule change will eliminate the annual audit requirement of the Cranberry Commission and bring the rule establishing the commission consistent with other commissions formed under chapter 15.65 RCW, Agricultural Enabling Act of 1961. The rule change will reduce the cost to the Washington Cranberry Commission.

Proposal Changes the Following Existing Rules: The proposed change will eliminate the annual audit requirement of the commission and allow the commission to establish an audit schedule of at least once every five years subject to methods and procedures of the state auditors's office.

**NOTICE**

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Walter Swenson, Washington Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, AND RECEIVED BY April 17, 2000.

February 16, 2000

William E. Brookreson

Deputy Director

AMENDATORY SECTION (Amending Order 1864, filed 7/8/85)

**WAC 16-565-020 Cranberry commodity board. (1) Administration.** The provisions of this order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

**(2) Board membership.**

(a) The board shall consist of eight members. Seven members shall be affected producers elected as provided in this section. The director shall appoint one member who is neither an affected producer nor a handler to represent the department and the public.

(b) For the purpose of nomination and election of producer members of the board, the affected area shall be the state of Washington and shall be divided into three representative districts as follows:

District I shall have two board members, being Positions 1 and 2, and shall comprise that portion of Pacific County lying south of the Willapa River.

District II shall have four board members, being Positions 3, 4, 5, and 6, and shall comprise that portion of Pacific

County and that portion of Grays Harbor County lying between the Willapa River and the Chehalis River.

District III shall have one board member, being Position 7, and shall comprise the rest of the state.

(3) **Board membership qualifications.** The affected producer members of the board shall be practical producers of cranberries and shall be citizens and residents of the state of Washington, over the age of twenty-five years, each of whom is and has been actually engaged in producing cranberries within the state of Washington for a period of five years and has, during that time, derived a substantial portion of his income therefrom. Producer-handlers shall be considered to be acting only as producers for purpose of election and membership on a commodity board. The qualifications of members of the board as herein set forth must continue during the terms of office.

(4) **Term of office.**

(a) The term of office for members of the board shall be three years, and one-third of the membership as nearly as possible shall be elected each year.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through seven and the member appointed by the director, position eight.

(c) The term of office for the initial board members shall be as follows:

Positions one and three - one year;

Positions four and five - two years;

Positions two, six, seven, and eight - three years.

(d) No elected member of the board may serve more than two full consecutive three-year terms.

(5) **Nomination and election of board members.** Each year the director shall call for a nomination meeting. Such meeting shall be held at least thirty days in advance of the date set by the director for the election of board members. Notice of every such meeting shall be published in a newspaper of general circulation within the production area not less than ten days in advance of the date of such meeting; and, in addition, written notice of every such meeting shall be given to all affected producers according to the list maintained by the director pursuant to RCW 15.65.200 of the act. Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting. Any qualified affected producer may be nominated orally for membership on the board at such nomination meeting. Nominations may also be made within five days after any such meeting by written petition filed with the director, signed by not less than five affected producers. At the inception of this marketing order, nominations may be made at the issuance hearing.

(6) **Election of board members.**

(a) Members of the board shall be elected by secret mail ballot within the month of June under the supervision of the director. Affected producer members of the board shall be elected by a majority of the votes cast by the affected producers. Each affected producer shall be entitled to one vote.

(b) If a nominee does not receive a majority of the votes on the first ballot, a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(c) Notice of every election for board membership shall be published in a newspaper of general circulation within the production area not less than ten days in advance of the date of such election. Not less than ten days prior to every election for board membership, the director shall mail a ballot of the candidates to each affected producer entitled to vote whose name appears on the list of such affected producers maintained by the director in accordance with RCW 15.65.200. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing his qualifications. Nonreceipt of a ballot by any affected producer shall not invalidate the election of any board members.

(7) **Vacancies prior to election.** In the event of a vacancy on the board, the remaining members shall select a qualified person to fill the unexpired term.

(8) **Quorum.** A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) **Board compensation.** No member of the board shall receive any salary or other compensation, but each member may receive per diem in accordance with RCW 15.65.270 for each day in actual attendance at or traveling to and from meetings of the board or on special assignment for the board, together with travel expenses at the rates allowed state employees.

(10) **Powers and duties of the board.** The board shall have the following powers and duties:

(a) To administer, enforce, and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel as the board determines necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

(d) To pay from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration, and enforcement of the order. Such expenses and costs may be paid by check, draft, or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To accept grants and gifts and expend the same consistent with the policies and purpose of this order.

(f) To reimburse any applicant who has deposited with the director in order to defray the costs of formulating the order.

(g) To establish a "cranberry board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except as the amount of petty cash for each day's needs, not-to-exceed one hundred dollars, shall be deposited each day or as advisable.

(h) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, paid outs, moneys, and other financial transactions made and done pursuant to this order. Such records, books, and accounts shall be audited at least ((annually)) every five years subject to procedures and meth-

ods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor, and the board.

(i) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(j) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year.

(k) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books, and minutes of board meetings shall be kept at such headquarters.

(l) To adopt rules and regulations of a technical or administrative nature, subject to the provisions of chapter 34.04 RCW (Administrative Procedure Act).

(m) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the order and the act, along with the necessary authority and procedure for obtaining such information.

(n) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction, or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon him/her by the act or the order.

(o) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements, or orders.

(p) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

**(11) Procedures for board.**

(a) The board shall hold regular meetings, at least semi-annually, and such meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act).

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days prior to the meeting by written notice to each producer and by notifying the regular news media.

(c) The board shall establish by resolution, the time, place, and manner of calling special meetings of the board with reasonable notice to the members: *Provided*, That the notice of any special meeting may be waived by a waiver thereof by each member of the board.

**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.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 388-15-145, 388-15-200, 388-15-201, 388-15-206, 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.

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

**PERMANENT**

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. 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

## HOME AND COMMUNITY PROGRAMS

### NEW SECTION

**WAC 388-71-0400 What is the intent of the department's home and community programs?** The department offers home and community programs (HCP) as an alternative to nursing facility care so that eligible persons may remain in, or return to, their own homes or community residences with the provision of supportive services. Some of these services may be administered by home and community services (HCS), division of developmental disabilities (DDD), area agency on aging (AAA) or division of children and family services (DCFS).

### NEW SECTION

**WAC 388-71-0405 What are the home and community programs?** The HCP are in-home and community residential services funded by:

(1) Community options program entry system (COPES), codified under subsection 1915(c) of the Social Security Act and 42 C.F.R. 441.300 and 310.

(2) Medicaid personal care services (MPC), found under RCW 74.09.520 and in the Medicaid state plan.

(3) Chore personal care services, a state-only funded program authorized under RCW 74.08.090, 74.09.520, and 74.08.570.

### NEW SECTION

**WAC 388-71-0410 What services may I receive under HCP?** You may receive the following HCP services:

(1) Assistance with personal care tasks and household tasks in your own home, as defined in 388-15-202(38); and

(2) Assistance with personal care tasks and household tasks in a residential setting, as described in WAC 388-71-0600. Note: Household tasks are included as part of the board and room rate. You may receive, under MPC:

(a) Up to thirty hours of personal care services in an adult residential care facility; or

(b) Up to sixty hours of personal care services in an adult family home.

### NEW SECTION

**WAC 388-71-0415 What other services may I receive under the COPES program?** In addition to the services listed in WAC 388-71-0410, you may be eligible for other services under the COPES program. You may be eligible to receive:

(1) Adult day services, in an adult day care or adult day health center if you:

(a) Are ineligible for Medicaid state plan covered adult day health services;

(b) Are chronically ill or disabled, socially isolated and/or confused or have mild to moderate dementia; and

(c) Meet eligibility requirements for adult day services as required in:

(i) WAC 388-15-652, Eligibility for adult day care; or

(ii) WAC 388-15-653, Eligibility for adult day health.

(2) Environmental modifications, if the minor physical adaptations to your home:

(a) Are necessary to ensure your health, welfare and safety;

(b) Enable you to function with greater independence in the home;

(c) Directly benefit you medically or remedially;

(d) Meet applicable state or local codes.

(3) Home delivered meals, limited to one meal per day, if:

(a) You are homebound;

(b) You are unable to prepare the meal;

(c) You don't have a caregiver (paid or unpaid) available to prepare this meal; and

(d) Receiving this meal is more cost-effective than having a paid caregiver.

(4) Home health aide service tasks, if the service tasks:

(a) Include assistance with ambulation, exercise, self-administered medications and hands on personal care;



(b) Are beyond the amount, duration or scope of Medicaid reimbursed home health services (WAC 388-551-2100) and are in addition to those available services; and

(c) Are health-related. Note: Incidental services such as meal preparation may be performed in conjunction with a health-related task as long as it is not the sole purpose of the aide's visit.

(5) Personal emergency response system (PERS), if the service is necessary to enable you to secure help in the event of an emergency and if you:

(a) Live alone; or

(b) Are alone for significant parts of the day and have no regular provider for extended periods of time.

(6) Skilled nursing, if the service is:

(a) Provided by a registered nurse or licensed practical nurse under the supervision of a registered nurse; and

(b) Beyond the amount, duration or scope of Medicaid-reimbursed home health services as provided under WAC 388-551-2100.

(7) Specialized medical equipment and supplies, if the items are:

(a) Necessary for life support;

(b) Necessary to increase your ability to perform activities of daily living; or

(c) Necessary for you to perceive, control, or communicate with the environment in which you live; and

(d) Directly medically or remedially beneficial to you; and

(e) In addition to any medical equipment and supplies provided under the state plan.

(8) Training, if you need to meet a therapeutic goal such as:

(a) Adjusting to a serious impairment;

(b) Managing personal care needs; or

(c) Developing necessary skills to deal with care providers.

(9) Transportation services, if the service:

(a) Provides the client access to community services and resources provided in accordance with a therapeutic goal;

(b) Is not merely diversional in nature;

(c) Is in addition to Medicaid brokered transportation to medical services; and

(d) Does not replace the Medicaid-brokered transportation.

#### NEW SECTION

**WAC 388-71-0420 What services are not covered under HCP?** HCP does not cover the following services:

(1) For chore personal care and MPC:

(a) Teaching, including teaching how to perform personal care tasks;

(b) Development of social, behavioral, recreational, communication, or other types of community living skills;

(c) Nursing care.

(2) Services provided outside of your residence, unless they are authorized in your written service plan.

(3) Child care;

(4) Sterile procedures, administration of medications, or other tasks requiring a licensed health professional, unless

authorized as an approved nursing delegation task, client self-directed care task, or provided by a family member;

(5) Services provided over the telephone;

(6) Services provided outside the state of Washington if COPEs or chore personal care;

(7) Services to assist other household members not eligible for services;

(8) Yard care.

#### NEW SECTION

**WAC 388-71-0425 Who can provide HCP services?**

The following types of providers may provide COPEs, MPC, or chore services:

(1) Individual in-home providers, who must meet the requirements outlined in WAC 388-71-0500 through 388-71-0580;

(2) Home care agencies, which must be licensed under chapters 70.127 RCW and 246-336 WAC, or home health agencies, licensed under chapters 70.127 RCW and 246-327 WAC;

(3) Licensed adult family home and boarding home providers who are contracted with DSHS (see WAC 388-71-0600); and

(4) Service providers who have contracted with the AAA to perform COPEs services listed in WAC 388-71-0415.

#### NEW SECTION

**WAC 388-71-0430 Am I eligible for one of the HCP programs?** You are eligible to receive HCP services if you meet the functional and financial eligibility requirements in WAC 388-15-610 for COPEs, WAC 388-71-0440 for MPC, or WAC 388-71-0445 for Chore. Your eligibility begins upon the date of the department's service authorization.

#### NEW SECTION

**WAC 388-71-0440 Am I eligible for MPC-funded services?** To be eligible for MPC-funded services you must:

(1) Have unmet need for assistance with at least one unmet direct personal care task listed in WAC 388-15-202(17); and

(2) Be certified as Title 19 categorically needy, as defined in WAC 388-500-0005.

(3) Be assessed by department staff or designee using a department approved comprehensive assessment and have a determination of unmet needs for HCP services.

#### NEW SECTION

**WAC 388-71-0445 Am I eligible for Chore-funded services?** To be eligible for Chore-funded services, you must:

(1) Be eighteen years of age or older;

(2) Require assistance with at least one of the direct personal care tasks listed in WAC 388-15-202(17);

(3) Not be eligible for MPC or COPEs, Medicare home health or other programs if these programs can meet your needs;

(4) Have net household income (as described in WAC 388-450-0005, 388-450-0015, and 388-450-0210) not exceeding:

- (a) The sum of the cost of your chore services, and
- (b) One-hundred percent of the FPL adjusted for family size.

(5) Have resources, as described in chapter 388-470 WAC, which does not exceed ten thousand dollars for a one-person family or fifteen thousand dollars for a two-person family. (Note: One thousand dollars for each additional family member may be added to these limits.)

(6) Not transfer assets on or before November 1, 1995 for less than fair market value as described in WAC 388-513-1365.

#### NEW SECTION

**WAC 388-71-0450 How do I remain eligible for services?** In order to remain eligible for services, you must have and be found still in need of HCP services through a reassessment. The reassessment must be conducted:

- (1) Face-to-face.
- (2) In your own home. Note: A case manager may request the interview be conducted in private.
- (3) At least annually or more often if your functional, financial, or other significant circumstances change.

#### NEW SECTION

**WAC 388-71-0455 Can my services be terminated if eligibility requirements for HCP change?** The department has the right to terminate your services if eligibility requirements for HCP change.

#### NEW SECTION

**WAC 388-71-0460 Are there limitations to HCP services I can receive?** The following are limitations to HCP services you can receive:

- (1) HCP services may not replace other available resources, both paid and unpaid.
- (2) AASA published rates and program rules establish your total hours and how much the department pays toward the cost of your services.
- (3) The department will adjust payments to a personal care provider who is doing household tasks at the same time (e.g., essential shopping, meal preparation, laundry, and supervision due to impaired judgement) for:
  - (a) More than one client living in the same household; or
  - (b) A client in a shared living arrangement (MPC).

#### NEW SECTION

**WAC 388-71-0465 Are there waiting lists for HCP services?** If you are receiving:

- (1) COPES services, a waiting list may be created if:
  - (a) The caseload or expenditures exceed the legislative funding, or
  - (b) HCFA or the legislature imposes caseload limits.

(2) Chore services, a waiting list may be created to maintain the monthly expenditures within the legislative appropriation. You receive priority if you:

- (a) Have received chore as of June 30, 1995; or
- (b) Need chore:
  - (i) To return to the community from a nursing home,
  - (ii) To prevent unnecessary nursing home placement, or
  - (iii) For protection based on referral from an APS investigation.

(3) MPC, there is no waiting list. Note: Instead of waiting lists, the department may be required to revise HCP rules to reduce caseload size, hours, rates, or payments in order to stay within the legislative appropriation.

#### NEW SECTION

**WAC 388-71-0470 Who pays for HCP services?** Depending on your income and resources, you may be required to pay participation toward the cost of your care. The department determines exactly what amount, if any, you pay. If you are receiving:

- (1) COPES in-home services,
  - (a) You participate income above the Medically needy income level (MNIL) or Federal Poverty Level (FPL) directly to the service provider.
  - (b) You pay the person providing the highest level of care or multiple providers, so long as the amount authorized for services is greater than the participation amount.
  - (c) If you have nonexempt income that exceeds the cost of COPES services, you may retain the difference.
  - (d) Rules regarding COPES in-home participation are found in WAC 388-515-1505.

(2) MPC in-home services, you do not participate toward the cost of your personal care services.

(3) Chore services, you may retain an amount equal to one hundred percent of the federal poverty level, adjusted for family size, as the home maintenance allowance and pay the difference between the FPL and your **nonexempt** income (as defined in WAC 388-513-1340) to your provider.

(4) COPES residential services, you pay toward the cost of your room, board, personal care services, and health insurance premiums. You may retain a fifty-eight dollars and eighty-four cents clothing and personal incidental allowance (CPI) and pay any remaining MNIL income up to the residential facility rate for the cost of room and board. HCFA does **not** allow COPES clients the twenty dollar disregard. Rules regarding COPES residential participation are found in WAC 388-515-1505.

- (5) MPC residential services, and you are:
  - (a) An SSI or SSI-related Medicaid recipient you participate income toward the room and board only. You are guaranteed a personal allowance of at least thirty-eight dollars and eighty-four cents a month; or
  - (b) A non-SSI client and become SSI or SSI-related because the cost of your care in the facility exceeds your income, you may be required to participate towards the cost of your room, board, personal care services, and health insurance premiums. You will receive a personal allowance of fifty-eight dollars and eighty-four cents a month.

**NEW SECTION**

**WAC 388-71-0475 What is the maximum amount that the department pays per month for your COPES care?** Total expenditures are limited to the department's published rates and authorized payments. These costs are not to exceed ninety percent of the statewide average monthly Medicaid nursing home reimbursement rate. The total cost of care includes the COPES maintenance allowance as well as all Medicaid costs associated with the COPES individual's paid services including but not limited to the following list of services:

- (1) Personal care,
- (2) Residential care services,
- (3) Adult day care,
- (4) Adult day health,
- (5) Environmental modifications,
- (6) Home delivered meals,
- (7) Home health aide visits,
- (8) Personal emergency response,
- (9) Skilled nursing visits,
- (10) Specialized medical equipment and supplies,
- (11) Adult companion services,
- (12) Client training,
- (13) Transportation services,
- (14) Hospitalization, and
- (15) Nursing facility care.

**NEW SECTION**

**WAC 388-71-0480 If I am employed, can I still receive HCP services?** If you are disabled, as determined under WAC 388-511-1105, you may be employed and still be eligible to receive HCP services.

(1) If you remain Medicaid eligible under the categorically needy program, you are financially eligible for MPC services.

(2) If you are not Medicaid eligible due to your earned income and resources, you may be eligible to receive chore personal care services.

(a) You may be required to pay participation per WAC 388-71-0465(3) for any earned income above one hundred percent of the federal poverty level.

(b) The department will exempt fifty percent of your earned income after work expense deductions. Work expense deductions are:

- (i) Personal work expenses in the form of self-employment taxes (FICA); and income taxes when paid;
- (ii) Payroll deductions required by law or as a condition of employment in the amounts actually withheld;
- (iii) The necessary cost of transportation to and from the place of employment by the most economical means, except rental cars;
- (iv) Expenses necessary for continued employment such as tools, materials, union dues, transportation to service customers is not furnished by the employer;
- (v) Uniforms needed on the job and not suitable for wear away from the job;

(vi) Spousal income allocated and actually paid as participation in the cost of the spouse's community options program entry system (COPES) services;

(vii) Amounts paid for medical expenses not subject to third-party payment; and

(viii) Health insurance premiums, coinsurance or deductible charges.

**RESIDENTIAL CARE SERVICES****NEW SECTION**

**WAC 388-71-0600 What are residential services?**

The residential service program provides personal care services, as defined in WAC 388-15-202(38), room, board, supervision, and nursing services for elderly and disabled adults. Eligible individuals may choose to receive services from any of the following licensed and contracted residential settings:

(1) **Adult family homes** with a state contract provide services for two to six unrelated adults (chapter 388-76 WAC). Services include room, board and supervision. Residents may also receive limited nursing services, under nurse delegation or if the sponsor or the manager is a nurse.

(2) **Assisted living** provides services in a licensed boarding home with a state contract (chapter 388-110 WAC, part I and II). Structural requirements include two hundred twenty square foot private room, private bathroom, and a kitchen in each unit. Resident services may include room, board, assistance with ADL and IADL, and limited nursing services. Services are authorized according to the department's comprehensive assessment and service plan.

(3) **Enhanced adult residential care** provides services in a licensed boarding home with a state contract (chapter 388-110 WAC, part I and III). Services may include a shared room, limited nursing services, assistance with ADL and IADL, limited nursing services, and supervision. Services are authorized according to the department's comprehensive assessment and service plan.

(4) **Adult residential care** provides services in a licensed boarding home with a state contract (chapter 388-110 WAC, part I and IV). Services may include supervision.

**NEW SECTION**

**WAC 388-71-0605 Am I eligible for residential services?** If you apply for services, you may be eligible to have the department pay for your services through one of the programs listed below. The department assesses and determines your functional and financial eligibility for residential services under one of the following long-term care programs:

(1) Community options program entry system (COPES), defined in WAC 388-515-1505;

(2) Medicaid personal care funding (MPC), described in WAC 388-71-0440; or

(3) If you are not eligible for services under one of the programs listed above, you may be able to receive state-only funding for residential services through Supplemental Security Income (SSI) as determined under WAC 388-511-1105

or 388-511-1130; General assistance unemployment under WAC 388-235-5000; or Title XIX categorically relatable to SSI if you are:

- (a) Eighteen or older; and
- (b) Unable to live alone and/or need assistance with activities of daily living.

Residential care services	COPEs	MPC	State-only programs
Adult family homes	x	x	x
Adult residential care (ARC)		x	x
Enhanced adult residential care (EARC)	x		
Assisted living facilities (AL)	x		

Note: If you are under eighteen, you may receive MPC services in a children's foster family home or a children's group care facility.

**NEW SECTION**

**WAC 388-71-0610 Who pays for residential care?** You must use your income to pay for your room and board and services. You are allowed to keep some of your income for clothing and personal incidental (CPI). The department determines the amount of CPI that you may keep. Rules regarding the amount you must pay or CPI are found in WAC 388-513-1380; 388-515-1505 for COPEs; or 388-478-0045 for all other programs.

(1) The department pays the facility for the difference between what you pay and the department-set rate for the facility. AASA published rates and program rules establish your total hours and how much the department pays toward the cost of your services.

(2) Washington state collects from your estate the cost of the care that the department provides based on chapter 388-527 WAC.

**NEW SECTION**

**WAC 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?** (1) If you are discharged from a hospital, residential care facility, or a nursing facility, you may receive a residential care discharge allowance. This one-time payment is used to help you establish or resume living in your own home. An allowance up to eight hundred and sixteen dollars covers necessary equipment, remodeling, rent, and utilities if you do not have resources to pay these costs.

(2) The discharge allowance does not pay for items or services paid for by other state programs.

**NEW SECTION**

**WAC 388-71-0620 Am I eligible for a residential discharge allowance?** You are eligible for a residential discharge allowance if you:

- (1) Receive long-term care services from the department; and
- (2) Reside in a hospital, nursing facility, adult residential care, enhanced adult residential care, assisted living, or adult family home.

**SENIOR CITIZEN'S SERVICES**

**NEW SECTION**

**WAC 388-71-1000 What is the Senior Citizens Services Act?** The Senior Citizens Services Act (chapter 74.38 RCW) provides funds for eligible senior citizens to receive community-based services as an alternative to institutional care when that form of care is premature, unnecessary, or inappropriate.

**NEW SECTION**

**WAC 388-71-1005 Who administers the Senior Citizens Services Act funds?** Aging and adult services administration (AASA) designates the local area agencies on aging (AAA) to directly coordinate and provide senior citizens services. AAA and AASA monitor the use of Senior Citizens Services Act (SCSA) funds.

**NEW SECTION**

**WAC 388-71-1010 What services does the SCSA fund?** The community based services funded by SCSA for low-income eligible persons provided by area agencies may include those described in RCW 74.38.040.

**NEW SECTION**

**WAC 388-71-1015 How do I apply for SCSA-funded services?** To receive SCSA-funded services you or your representative must:

- (1) Complete and submit a department application form, providing complete and accurate information; and
- (2) Promptly submit a written report of any changes in income or resources. For the definition of income and resources, refer to WAC 388-500-0005.

**NEW SECTION**

**WAC 388-71-1020 Am I eligible for SCSA-funded services at no cost?** To be eligible for SCSA-funded services at no cost, you must:

- (1) Be age:
  - (a) Sixty-five or older; or
  - (b) Sixty or older, and:
    - (i) Either unemployed, or
    - (ii) Working twenty hours a week or less;

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(2) Have a physical, mental, or other type of impairment, which without services would prevent you from remaining in your home;

(3) Have income at or below forty percent of the state median income (SMI) for a family of four adjusted for family size; and

(4) Have nonexempt resources (including cash, marketable securities, and real or personal property) not exceeding ten thousand dollars for a single person or fifteen thousand for a family of two, increased by one thousand dollars for each additional family member of the household. Household means a person living alone or a group of people living together.

(5) If you have income over forty percent of SMI you may be eligible for services on a sliding fee basis.

#### NEW SECTION

**WAC 388-71-1025 What income and resources are exempt when determining eligibility?** The following income and resources, regardless of value, are exempt when determining whether you are eligible for SCSA-funded services:

- (1) Your home, and the lot it is upon;
- (2) Garden produce, livestock, and poultry used for home consumption;
- (3) Program benefits which are exempt from consideration in determining eligibility for needs based programs (e.g., uniform relocation assistance, Older Americans Act funds, foster grandparents stipends or similar monies);
- (4) Used and useful household furnishings, personal clothing, and automobiles;
- (5) Personal property of great sentimental value;
- (6) Personal property used by the individual to earn income or for rehabilitation;
- (7) One cemetery plot for each member of the family unit;
- (8) Cash surrender value of life insurance;
- (9) Real property held in trust for an individual Indian or Indian tribe; and
- (10) Any payment received from a foster care agency for children in the home.

#### NEW SECTION

**WAC 388-71-1030 What if I am not eligible to receive SCSA-funded services at no cost?** (1) Even if your income is above the forty percent SMI limit to receive SCSA-funded services at no cost, you may receive SCSA-subsidized services. The department uses a sliding fee schedule to determine what percentage the department pays for the cost of your services. You pay the remaining amount, but not more than the usual rate paid for services as negotiated by the AAA or the department. The formula for determining the department's share of the cost of the services is:

$$\frac{100\% \text{ State Median Income (SMI)} - \text{Household Income}}{100\% - 40\% \text{ SMI}}$$

(2) Service providers must be responsible for collecting fees owed by eligible persons and reporting to area agencies all fees paid or owed by eligible persons.

(3) Some services have no charge regardless of income or need requirements. These services include but are not limited to nutritional services, health screening, services under the long-term care ombudsman program, and access services. Note: Well adult clinic services may be provided in lieu of health screening services if such clinics use the fee schedule established by this section.

#### NEW SECTION

**WAC 388-71-1035 What are my rights under SCSA?** You have a right to:

- (1) Receive written notice of eligibility, ineligibility, or any adverse decision, including reasons for denial, within a reasonable period of time;
- (2) Be treated with dignity and courtesy, and not be discriminated against because of race, creed, color, national origin, sex, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person;
- (3) Be informed of your rights and responsibilities under this program;
- (4) Have information, given to the department or AAA, held in confidence and used only to provide services to you; and
- (5) Request an administrative hearing if you disagree with a decision (see WAC 388-08-413).

### **RESPITE CARE SERVICES**

#### NEW SECTION

**WAC 388-71-1065 What is the purpose of the respite care program?** The respite care program provides relief care for unpaid family or other caregivers of adults with a functional disability. Caregivers may need respite care to:

- (1) Relieve some of the stresses of caregiving;
- (2) Maintain family structure; or
- (3) Keep the adult in his or her home.

#### NEW SECTION

**WAC 388-71-1070 What definitions apply to respite care services?** The following definitions apply to respite care services:

**"Caregivers"** means a spouse, relative, or friend who has primary responsibility for the daily care of an adult with a functional disability without receiving payment for services provided.

**"Continuous care or supervision"** means daily assistance or oversight of an adult with a functional disability.

**"Functionally disabled"** means requiring substantial assistance in completing activities of daily living and community living skills.

**"Participant"** means an adult with a functional disability who needs substantial daily continuous care or supervision.

**"Respite care services"** means services which relieve unpaid caregivers by providing temporary care or supervision to adults with a functional disability.

**"Service provider"** means an individual, agency, or organization under contract to the area agency on aging (AAA) or its subcontractor.

#### NEW SECTION

**WAC 388-71-1075 Who is eligible to receive respite care services?** (1) To be eligible to receive respite care services, the caregivers must:

(a) Have primary responsibility for the daily care of an adult with a functional disability;

(b) Not be compensated for the care; and

(c) Be assessed as being at risk of placing the participant in a long-term care facility if home and community support services, including respite care, are not available.

(2) An eligible participant is an adult who:

(a) Has a functional disability;

(b) Needs daily substantial continuous care or supervision; and

(c) Is assessed as requiring placement in a long-term care facility if home and community support services, including respite care, are not available.

#### NEW SECTION

**WAC 388-71-1080 Who may provide respite care services?** Respite care providers include, but are not limited to the following:

(1) Nursing homes (rules regarding respite services provided in a nursing home, can be found in WAC 388-97-210);

(2) Adult day services, which includes adult day care and adult day health, as defined in WAC 388-15-651;

(3) Home health/home care agencies;

(4) Hospitals;

(5) Licensed residential care facilities such as boarding homes, adult family homes, and assisted living facilities; and

(6) Social service providers such as volunteer chore workers, senior companions, and individual providers.

#### NEW SECTION

**WAC 388-71-1085 How are respite care providers reimbursed for their services?** The department reimburses:

(1) Respite care providers for the number of hours or days of services authorized and used. The rate that is established for the services is negotiated between the respite care program of the local area agency on aging and the respite care service provider.

(2) Medicaid-certified nursing homes and developmental disability facilities providing respite services the Medicaid rate approved for that facility. Contracted nursing homes must not charge beyond the Medicaid rate for any services covered from the date of eligibility unless the department

authorizes it (see RCW 18.51.070). Participants must pay for services not included in the Medicaid rate.

(3) Private nursing homes at their published daily rate.

#### NEW SECTION

**WAC 388-71-1090 Are participants required to pay for the cost of their services?** (1) There is no charge to the participant whose income is at or below forty percent of the state median income, based on a family of four.

(2) If the participant's gross income is above forty percent of the state median income, he or she is required to pay for part or all of the cost of the respite care services. The department will determine what amount the participant must contribute based on the state median income and family size.

(3) If the participant's gross income is one hundred percent or more of the state median income, the participant must pay the full cost of services.

#### NEW SECTION

**WAC 388-71-1095 Are respite care services always available?** (1) The department must first consider requests for emergency respite care. An example of an emergency is when the caregiver becomes ill or injured to the extent that the caregiver's ability to care for the disabled adult is impaired.

(2) In nonemergency situations, respite care is allocated based upon available respite funds at the local level. Respite care must be provided on a first-come, first-served basis. If sufficient funds are not available when respite care is requested, services are made available using waiting lists and department-approved priority categories including caregiver vulnerability and health condition, availability of other support systems, and whether other family members need care.

#### **VOLUNTEER CHORE**

#### NEW SECTION

**WAC 388-71-1100 What is volunteer chore services (VCS)?** Volunteer chore services (VCS) is a state-funded program which provides volunteer assistance with household tasks to low income elderly and other adults with disabilities to enable them to stay in their own homes. VCS is a component of the continuum of home and community services provided by the department. The program:

(1) Assists people who need but are not eligible for DSHS services; or

(2) Complements DSHS services by using volunteer assistance to perform tasks which do not require specially-skilled personnel.

(3) Provides assistance with housework, laundry, shopping, cooking, moving, minor home repair, yard care, limited personal care, monitoring and transportation.

**NEW SECTION**

**WAC 388-71-1105 Am I eligible to receive volunteer chore services?** You may receive volunteer chore services if you are:

- (1) Eighteen years of age or older;
- (2) Living at home unless you are moving from a residential facility to home and need assistance moving;
- (3) Unable to perform certain household or personal care tasks due to functional or cognitive impairment;
- (4) Financially unable to purchase services from a private provider;
- (5) Not receiving services under COPES, MPC, or chore personal care because you:
  - (a) Do not meet the eligibility requirements; or
  - (b) Decline these services.
- (6) In need of assistance from volunteer chore in addition to or in substitution of paid services under COPES, MPC, or chore personal care.

**NEW SECTION**

**WAC 388-71-1110 How do I receive information on applying for volunteer chore services?** You can receive information on applying for services by calling or visiting your local:

- (1) Aging and adult services home and community services office;
- (2) Developmental disabilities field services office;
- (3) Area agency on aging office;
- (4) Senior information and assistance office;
- (5) Catholic community services office.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 388-15-145 Residential care discharge allowance.
- WAC 388-15-200 Health support services.
- WAC 388-15-201 Long-term care functional eligibility.
- WAC 388-15-206 Volunteer chore services.
- WAC 388-15-207 Chore personal care services for adults—Legal basis—Purpose—Goals.
- WAC 388-15-209 Chore personal care services—Eligibility.
- WAC 388-15-214 Chore personal care services—Budget control.
- WAC 388-15-215 Chore personal care services—Program limitations.
- WAC 388-15-219 Chore personal care service—Payment and client participation.

- WAC 388-15-222 Chore personal care services—Employed disabled—Incentive income and resource exemption.
- WAC 388-15-548 Residential services.
- WAC 388-15-551 Adult family home—Authority to purchase care—Standards.
- WAC 388-15-552 Adult family home—Eligible persons.
- WAC 388-15-553 Adult family home—Determination of need.
- WAC 388-15-554 Adult family home—Placement in facility.
- WAC 388-15-555 Adult family home—Payments—Standards—Procedures.
- WAC 388-15-560 Congregate care—Definition—Authority to purchase care—Standards.
- WAC 388-15-562 Congregate care—Eligible persons.
- WAC 388-15-563 Congregate care—Residents of other states.
- WAC 388-15-564 Congregate care—Determination of need.
- WAC 388-15-566 Congregate care—Placement in facility.
- WAC 388-15-568 Congregate care—Payment—Standards—Procedures.
- WAC 388-15-600 Community options program entry system (COPES)—Purpose—Legal basis.
- WAC 388-15-620 COPES—Services.
- WAC 388-15-630 COPES—Payment procedures.
- WAC 388-15-690 Respite care services—Definitions.
- WAC 388-15-695 Respite care services—Caregiver eligibility.
- WAC 388-15-700 Respite care services—Distribution of cost.
- WAC 388-15-705 Respite care services—Rates of payment.
- WAC 388-15-710 Respite care services—Service priorities.
- WAC 388-15-715 Respite care services—Service priority categories.

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- WAC 388-15-810 Medicaid personal care services—Legal basis—Purpose.
- WAC 388-15-830 Medicaid personal care services—Eligibility.
- WAC 388-15-880 Medicaid personal care services—Payment procedures.
- WAC 388-15-890 Medicaid personal care services—Program limitations.
- WAC 388-15-895 Termination of services.

WAC 388-17-510 Area agency on aging plan—Administrative review process.

**WSR 00-04-080**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Medical Assistance Administration)  
 [Filed February 1, 2000, 2:13 p.m.]

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 388-17-010 Legal basis for senior citizens services program.
- WAC 388-17-020 Definitions.
- WAC 388-17-100 Rights and responsibilities of applicants and recipients.
- WAC 388-17-120 Eligibility for senior citizens services—Application.
- WAC 388-17-160 Income and resources.
- WAC 388-17-180 Fee schedule.
- WAC 388-17-500 Local area agency on aging contracts—Administrative review process.

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 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:

**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.

"End enrollment' means an enrollee is currently enrolled in HO..."

"End enrollment' means an enrollee is currently enrolled in Healthy Options (HO)..."

Spelled out "healthy options" as this is the first time it is used in the text.

"Health care service" or "service" means a service provided for...

"Health care service' or 'service' means a service or item provided..."

Added "item" for clarity and per stakeholder request.

"Healthy options program' or 'HO program' means medical assistance administration's managed care..."

"Healthy option program' or 'HO program' means MAA's managed care..."

Replaced "medical assistance administration's" with MAA since MAA spelled out earlier.

PERMANENT



CHANGED FROM:

"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:

"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:

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.

PERMANENT

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.

PERMANENT

CHANGED FROM:	TO:	REASON:
<b>388-538-095 (3)(a)</b> "...to deliver the scope of services contracted with the plan."	"...to deliver the scope of services contracted with the plan, <u>in a timely fashion, according to the requirements of the HO contract.</u> "	Added the "in a timely fashion" phrase per stakeholder request.
<b>388-538-095 (4)(b)(ii)</b> "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.
<b>388-538-095(5)</b> "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."	" <u>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.</u> "	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).
<b>388-538-095 (5)(a)</b> "The written consent form must be approved by MAA and include all of the following:"	" <u>The agreement must state all of the following:</u> "	Changed language to clarify the agreement is not a standard MAA consent form.
<b>388-538-095 (5)(a)(i)</b> "A description of the specific service the enrollee is agreeing to pay for;"	"The specific service <u>to be provided:</u> "	Eliminated first phrase to fit with introductory phrase in (5)(a) and reworded to reduce unnecessary verbiage.
<b>388-538-095 (5)(a)(ii)</b> "A statement that the service is not covered by MAA or the plan;"	"That the service is not covered by <u>either</u> MAA or the plan;"	Eliminated first phrase to fit with introductory phrase in (5)(a) and added "either" per stakeholder request.
<b>388-538-095 (5)(a)(iii)(B)</b> "The service is covered only when a participating provider provides it."	"The service is covered only when <u>provided by a</u> participating provider."	Changed language to eliminate awkward wording.
<b>388-538-095 (5)(a)(iv)</b> "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.
<b>388-538-095 (5)(a)(v)</b> "A statement that the enrollee agrees to pay for the service; and"	Deleted	Added to sentence above.
<b>388-538-095 (5)(a)(vi)</b> "A statement explaining why the enrollee is choosing to pay for the service, such as:"	<b>388-538-095 (5)(a)(v)</b> "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).

CHANGED FROM:

TO:

REASON:

**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.

**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.

"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.

PERMANENT

## CHANGED FROM:

## TO:

## REASON:

**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.

**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.

CHANGED FROM:

TO:

REASON:

**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 Making: 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

**AMENDATORY SECTION** (Amending Order 3886, filed 8/29/95, effective 9/1/95)

**WAC 388-538-050 Definitions.** ((For the purpose of this chapter:

(1) "~~Emergency services~~" shall mean ~~medical or other health services which are rendered for a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:~~

- (a) ~~Placing the patient's health in serious jeopardy;~~
- (b) ~~Serious impairment to bodily functions; or~~
- (c) ~~Serious dysfunction of any bodily organ or part.~~

(2) "~~Enrolled client~~" means ~~a client eligible for Medicaid and receiving services from a health care plan or primary care case management provider who has a contract with the department.~~

(3) "~~Health care plan~~" or "~~plan~~" means ~~an organization contracting with the department to provide managed care to the client by providing and/or paying for medical services covered by the department to an eligible enrolled client in exchange for a contracted rate or management fee.~~

(4)) The following definitions and abbreviations and those found in chapter 388-500-0005 WAC, Medical definitions, apply to this chapter. Defined words and phrases are bolded in the text.

"Ancillary health services" means health services ordered by a provider, including but not limited to, laboratory services, radiology services, and physical therapy.

"Appeal" means a formal request by a provider or covered enrollee for reconsideration of a decision such as a utilization review recommendation, a benefit payment, an administrative action, or a quality of care or service issue, with the goal of finding a mutually acceptable solution.

"Basic health plan (BHP)" means the health care program authorized by title 70.47 RCW and administered by the health care authority (HCA).

"Children's health insurance program (CHIP)" means the health insurance program authorized by Title XXI of the Social Security Act and administered by the medical assistance administration (MAA)

"Client" means an individual eligible for any medical program who is not enrolled with a managed care plan or primary care case management (PCCM) provider. In this chapter, client refers to a person before the person is enrolled in managed care, while enrollee refers to an individual eligible for any medical program who is enrolled in managed care.

"Complaint" means an oral or written expression of dissatisfaction by an enrollee.

"Emergency medical condition" means a condition meeting the definition in 42 U.S.C. 1396u-2 (b)(2)(C).

"Emergency services" means services as defined in 42 U.S.C. 1396u-2 (b)(2)(B).

"End enrollment" means an enrollee is currently enrolled in healthy options (HO) and requests to discontinue enrollment and return to the fee-for-service delivery system for one of the reasons outlined in WAC 388-538-130. This is also referred to as "disenrollment."

"Enrollee" means an individual eligible for any medical program who is enrolled in managed care through a health care plan or primary care case management (PCCM) provider that has a contract with the state.

"Enrollees with chronic conditions" means persons having chronic and disabling conditions, including persons with special health care needs that meet all of the following conditions:

- (1) Have a biologic, psychologic, or cognitive basis;
- (2) Have lasted or are virtually certain to last for at least one year; and

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(3) Produce one or more of the following conditions stemming from a disease:

(a) Significant limitation in areas of physical, cognitive, or emotional function;

(b) Dependency on medical or assistive devices to minimize limitation of function or activities; or

(c) In addition, for children, any of the following:

(i) Significant limitation in social growth or developmental function;

(ii) Need for psychologic, educational, medical, or related services over and above the usual for the child's age;  
or

(iii) Special ongoing treatments, such as medications, special diet, interventions, or accommodations at home or school.

"Exemption" means a client is not currently enrolled in HO and makes a pre-enrollment request to remain in the fee-for-service delivery system for one of the reasons outlined in WAC 388-538-080.

"Health care plan" or "plan" means an organization contracted with the department of social and health services (DSHS) to provide managed care to MAA clients.

"Health care service" or "service" or item means a service provided for the prevention, cure, or treatment of illness, injury, disease, or condition.

"Healthy options contract or HO contract" means the agreement between the department of social and health services and a health care plan to provide the contracted services to enrollees.

"Healthy options program or HO program" means medical assistance administration's managed care health program for Medicaid-eligible clients.

"Managed care" means a prepaid comprehensive system of medical and health care delivery including preventive, primary, specialty, and ancillary health services. Managed care involves having clients enrolled:

(a) With or assigned to a primary care provider;

(b) With or assigned to a plan; or

(c) With an independent provider, who is responsible for arranging or delivering all contracted medical care.

(5) "Persons with special health care needs" means persons having ongoing health conditions that:

(a) Have a biologic, psychologic, or cognitive basis;

(b) Have lasted or are virtually certain to last for at least one year; and

(c) Produce one or more of the following sequelae:

(i) Significant limitation in areas of physical, cognitive, or emotional function;

(ii) Dependency on medical or assistive devices to minimize limitation of function or activities;

(iii) In addition for children:

(A) Significant limitation in social growth or developmental function;

(B) Need for psychologic, educational, medical or related services over and above the usual for the child's age;  
or

(C) Special ongoing treatments such as medications, special diets, interventions or accommodations at home or at school.

(6) "Primary care provider (PCP)" means a provider who has responsibility for supervising, coordinating, and providing initial and primary care to clients, initiating referrals for specialist care, and maintaining the continuity of patient care. A primary care provider shall be either:

(a) A physician, who meets the criteria under WAC 388-87-007;

(b) An advanced registered nurse practitioner (ARNP), who meets the criteria under WAC 388-87-007; or

(c) A licensed physician assistant.

(7) "Primary care case management (PCCM)" means a model of health care where a physician, ARNP, physician assistant, community/migrant health center, health department, or clinic agrees to provide primary health care services and to arrange and coordinate other preventative, specialty, and ancillary health care in exchange for a contracted payment for each client managed.

(8) "Timely provision of services" means a client has the right to receive medically necessary health care without unreasonable delay).

"Participating provider" means a person or entity with a written agreement with a plan to provide health care services to managed care enrollees.

"Primary care case management (PCCM)" means the health care management activities of a provider that contracts with the department to provide primary health care services and to arrange and coordinate other preventive, specialty, and ancillary health services.

"Primary care provider (PCP)" means a person licensed or certified under Title 18 RCW including but not limited to, a physician, and advanced registered nurse practitioner (ARNP), or a physician assistant who supervises, coordinates, and provides health services to a client or an enrollee, initiates referrals for specialist and ancillary care, and maintains the client's or enrollee's continuity of care.

"Timely" - in relation to the provision of services, means an enrollee has the right to receive medically necessary health care without unreasonable delay.

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-538-060 Healthy options ((eligibility)) and choice. (1) A client is required to enroll in ((the department's "healthy options" (HO) managed care when that client:

(a) Is eligible for one of the medical programs subject to mandatory enrollment as determined by the department;

(b) Resides in one of the department's contracted managed care service areas;

(c) Is not exempted by the department per WAC 388-538-080; and

(d) Is not removed from HO enrollment by the department per WAC 388-538-130.

(2) American Indians or Alaskan Natives (AI/AN) are those individuals meeting the provisions of 25 U.S.C. 1603

(e) (d) as of April 30, 1998 (printed format available from the Government Printing Office, Washington, DC). They have the following options:

(a) ~~Enrolling with an HO primary care case manager (PCCM), which include Indian health service direct care clinics, clinics operated by tribes, and urban Indian health centers; or~~

(b) ~~Voluntarily selecting an HO contracted managed care plan; or~~

(c) ~~Requesting an exemption from enrollment in managed care based solely on their status as an AI/AN.~~

(3) An AI/AN who does not make a choice under subsection (2) of this section will be assigned to an HO PCCM if the client lives in a PCCM area. HO PCCMs are described in subsection (2)(a) of this section. A client who is assigned under this subsection is entitled to request and obtain removal from the PCCM assignment at any time.

(4) A client who is a Medicare beneficiary is not currently eligible to enroll with an HO managed care plan.

(5) Except for clients who are AI/AN, if the client does not choose an HO managed care plan, the department assigns the client to a HO plan in the client's area.

(6) The client will be given an opportunity to select a primary care provider from their HO managed care plan's available providers.

(7) If the client does not choose a primary care provider (PCP), the plan assigns the client a PCP.

(8) A client may change their PCP once a year for any reason. For more frequent PCP changes, the client must notify the plan of the request and a reason showing good cause. If the plan denies the change, the client may:

(a) Appeal to the plan; or

(b) Ask the department for a fair hearing; or

(c) Appeal to the plan and request a fair hearing from the department)) **HO** when that **client** meets all of the following conditions:

(a) Is eligible for one of the medical programs for which clients must enroll in **HO** as described in the **HO contract**;

(b) Resides in an area, determined by MAA, where clients must enroll in **HO**;

(c) Is not exempt from **HO** enrollment as determined by MAA, consistent with WAC 388-538-080, and any related fair hearing has been held and decided; and

(d) Has not had **HO** enrollment ended by MAA, consistent with WAC 388-538-130.

(2) American Indian/Alaska Native (AI/AN) **clients** who meet the provisions of 25 U.S.C. 1603 (c)-(d) for federally-recognized tribal members and their descendants, may choose one of the following:

(a) Enroll with an **HO plan** available in their area;

(b) Enroll with an **HO Indian or tribal PCCM provider** available in their area; or

(c) MAA's fee-for-service program.

(3) A **client** may enroll with a **plan** or **PCCM provider** by calling MAA's toll-free enrollment line, or by sending a completed **HO** enrollment form to MAA.

(a) Except as provided in subsection (2) of this section for AI/AN and in subsection (5) of this section for cross-

county enrollment, a **client** required to enroll in **HO** must enroll with a **plan** available in the area where the **client** lives.

(b) Family members must enroll with the same **plan**.

(c) **Enrollees** may request a **plan** change at any time.

(d) When a **client** requests enrollment with a **plan** or **PCCM provider**, MAA enrolls a **client** effective the earliest possible date given the requirements of MAA's enrollment system. MAA does not enroll **clients** retrospectively.

(4) MAA assigns a **client** who does not choose a **plan** or **PCCM provider** as follows:

(a) If the **client** has family members enrolled with a **plan**, the **client** is enrolled with that **plan**;

(b) If the **client** does not have family members enrolled with a **plan**, and the **client** was enrolled in the last six months with a **plan** or **PCCM provider**, the **client** is re-enrolled with the same **plan** or **PCCM provider**;

(c) If a **client** does not choose a **plan** or **PCCM provider** but chooses a **provider**, MAA attempts to contact the **client** by phone to obtain the **client's plan** or **PCCM provider** choice. If MAA is not able to contact the **client**, MAA attempts to determine whether the **client's** chosen **provider** is with a **plan**, and, if so, assigns the **client** to that **plan**;

(d) If the **client** cannot be assigned according to (a), (b), or (c) of this subsection, MAA assigns the **client** as follows:

(i) If an AI/AN **client** does not choose a **plan**, MAA assigns the **client** to a **PCCM provider** if that **client** lives in a zip code served by a **PCCM provider**. If there is no **PCCM provider** in the **client's** area, the **client** will remain fee-for-service. A **client** assigned under this subsection may request to **end enrollment** according to WAC 388-538-130 (2)(b) at any time.

(ii) If a non-AI/AN **client** does not choose a **plan**, MAA assigns a **plan** available in the area where the **client** lives. A **plan** must have at least one **PCP** available within twenty-five miles of the zip code in which the **client** lies for the **plan** to be considered available.

(iii) MAA sends a written notice to each household of one or more **clients** who are assigned to a **plan** or **PCCM provider**. The notice includes the name of the **plan** or **PCCM provider** to which each **client** has been assigned, toll-free contact phone numbers for the **plan** or **PCCM provider** and MAA, the effective date of enrollment, and the date by which the **client** must respond in order to change plan assignment.

(iv) An assigned **client** has at least thirty calendar days to contact MAA to change the **plan** or **PCCM provider** before enrollment is effective.

(5) A **client** may enroll with a **plan** in an adjacent county when the **client** lives in an area, designated by MAA, where residents historically have traveled a relatively short distance across county lines to the nearest available practitioner.

(6) **PCP** choice or assignment occurs as follows:

(a) **Enrollees** may choose:

(i) A **PCP** or clinic that is in their **plan** and accepting new **enrollees**; or



(ii) Different PCPs or clinics participating with the same plan for different family members.

(b) The plan assigns a PCP or clinic within reasonable proximity to the enrollee's home if the enrollee does not choose one;

(c) Enrollees may change PCPs or clinics in a plan at least once a year for any reason, and at any time for good cause; or

(d) In accordance with this subsection, enrollees may file an appeal with the plan and/or a fair hearing request with DSHS and may change plans if the plan denies an enrollee's request to change PCPs or clinics.

#### NEW SECTION

**WAC 388-538-065 Medicaid eligible basic health plan enrollees.** (1) Certain children and pregnant women enrolled through BHP (chapter 70.47 RCW) are eligible for Medicaid under pediatric and maternity expansion provisions of the Social Security Act. MAA determines Medicaid eligibility for children and pregnant women who enroll through BHP.

(2) The administrative rules and regulations that apply to HO enrollees also apply to Medicaid eligible clients enrolled through BHP, except as follows:

(a) The process for enrolling in HO described in WAC 388-538-060(3) does not apply since enrollment is through the health care authority, the state agency that administers BHP;

(b) American Indian/Alaska Native (AI/AN) clients cannot choose fee-for-service or PCCM as described in WAC 388-538-060(2). They must enroll in a BHP health care plan.

(c) 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).

#### NEW SECTION

**WAC 388-538-066 Children's health insurance program (CHIP) enrollees.** (1) Children eligible for the children's health insurance program (CHIP), a non-Medicaid medical program, may be enrolled in managed care as described in chapter 388-542 WAC.

(2) With the exception of the following sections, the sections in this chapter apply to CHIP clients enrolled in managed care:

(a) WAC 388-538-060 does not apply to CHIP. The enrollment and choice provisions for CHIP clients are included in chapter 388-542 WAC.

(b) WAC 388-538-065 does not apply to CHIP since CHIP eligible clients cannot enroll in managed care through the BHP.

(c) WAC 388-538-080 and 388-538-130 do not apply to CHIP. Chapter 388-542 WAC includes the provisions for exceptions to managed care enrollment for CHIP clients.

**AMENDATORY SECTION** (Amending WSR 96-24-073, filed 12/2/96, effective 1/2/97)

**WAC 388-538-070 Managed care payment.** ((The department shall pay for managed care as follows:

(1) Under a capitated system:

(a) A set rate to a plan for contracted health care provided to the client; and

(b) The plan has one year from the date services are provided to an SSI client to submit claims:

(i) To the department to be considered towards meeting the stop-loss deductible; and

(ii) For the department to make payments to the plan once the deductible is satisfied.

(2) Under a PCCM model in which the contract is between the department and the health care provider, a monthly management fee in addition to a fee for covered services provided to the client;

(3) Under a PCCM model in which the contract is between the department and a plan, a monthly management fee to the plan to be divided between the plan and the primary care provider, in addition to a fee to the health care provider for covered services provided to the client))

(1) MAA pays plans a monthly capitated premium according to contracted terms and conditions.

(2) MAA pays PCCM providers a monthly case management fee according to contracted terms and conditions.

(3) MAA does not pay providers on a fee-for-service basis for services that are the plan's responsibility under the HO contract, even if the plan has not paid for the service for any reason.

(4) MAA pays an additional monthly amount, known as an enhancement rate, to federally qualified health care centers (FOHC) and rural health clinics (RHC) for each client enrolled with plans through the FOHC or RHC. Plans may contract with FOHCs and RHCs to provide services under HO. FOHCs and RHCs receive an enhancement rate from MAA in addition to the negotiated payments they receive from the plans for services provided to enrollees.

(a) MAA pays the enhancement rate only for the categories of service provided by the FOHC or RHC under the HO contract. MAA surveys each FOHC or RHC in order to identify the categories of services provided by the FOHC or RHC.

(b) MAA bases the enhancement rate on both of the following:

(i) The upper payment limit (UPL) for the county in which the FOHC or RHC is located; and

(ii) An enhancement percentage.

(c) MAA determines the UPL for each category of service based on MAA's historical fee-for-service experience, adjusted for inflation and utilization changes.

(d) MAA determines the enhancement percentage for HO enrollees as follows:

(i) For FOHCs, the enhancement percentage is equal to the FOHC finalized audit period ratio. The "finalized audit period" is the latest reporting period for which the FOHC has a completed audit approved by and settled with MAA.

(A) For a clinic with one finalized audit period, the ratio is equal to:

(FOHC total costs) - (Fee-for-service reimbursements+ HO reimbursements)/(FFS+ HO reimbursements).

(B) For a clinic with two finalized audit periods, the ratio is equal to the percentage change in the medical services encounter rate from one finalized audit period to the next. A "medical services encounter" is a face-to-face encounter between a physician or mid-level practitioner and a client to provide services for prevention, diagnosis, and/or treatment of illness or injury. A "medical services encounter rate" is the individualized rate MAA pays each FOHC to provide such services to clients, or the rate set by Medicare for each RHC for such services.

(C) For FOHCs without a finalized audit, the enhancement percentage is the statewide weighted average of all the FOHCs' finalized audit period ratios. Weighting is based on the number of enrollees served by each FOHC.

(ii) For RHCs, MAA applies the same enhancement percentage statewide.

(A) On a given month, MAA determines the number of HO enrollees enrolled with each RHC that is located in the same county as an FOHC. This number is expressed as a percentage of the total number of RHC enrollees located in counties that have both FOHCs and RHCs.

(B) For each county that has both an FOHC and an RHC, MAA multiplies the FOHC enhancement percentage, as determined under subsection (4)(d)(i) of this section, by the percentage obtained in section (4)(d)(ii)(A) of this section.

(C) The sum of all these products is the weighted statewide RHC enhancement percentage.

(iii) The HO enhancement percentage for FOHCs and RHCs is updated once a year.

(e) For each category of service provided by the FOHC or RHC, MAA multiplies the UPL, as determined under subsection (4)(c) of this section, by the FOHC's or RHC's enhancement percentage. The sum of all these products is the enhancement rate for the individual FOHC or RHC.

(f) To calculate the enhancement rate for FOHCs and RHCs that provide maternity and newborn delivery services, MAA applies each FOHC's or RHC's enhancement percentage to the delivery case rate (DCR), which is a one-time rate paid by MAA to the HO plan for each pregnant enrollee who gives birth.

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-538-080 Healthy options ((~~managed care~~)) exemptions. (1) Only a client or ((~~their~~)) a client's representative (RCW 7.70.065) may request an exemption from HO enrollment ((~~to a healthy options (HO) managed care plan~~)). ("Exemption" means the client is excused from mandatory enrollment when they have not yet enrolled with or been assigned to an HO plan.) If a client asks for an exemption((~~, they are~~)) prior to the enrollment effective date, the client is not enrolled until ((~~the department~~)) MAA approves

or denies the request and any related fair hearing is held and decided.

(2) MAA exempts a client ((~~is exempted~~)) from mandatory enrollment in ((~~an HO managed care~~)) a plan ((~~if~~)) or with a PCCM provider if any of the following apply:

(a) Based on ((~~the department's~~)) MAA's evaluation of objective medical evidence, all of the following are met:

(i) The client has multiple, complex, or severe medical diagnoses; ((~~and~~))

(ii) The client's established provider is not ((~~with any~~)) available through any managed care plan; ((~~and~~))

(iii) There is a written treatment plan; ((~~and~~))

(iv) The treatment plan requires frequent change or monitoring; and

(v) Disruption of client's care would be harmful; or

(b) Prior to enrollment, the client scheduled a surgery with a provider not available to the client in ((~~an HO managed care plan (or after enrollment it is discovered that the provider is not in the client's current plan)~~)) a plan and the surgery is scheduled within the first thirty days of enrollment; or

(c) The client is ((~~an~~)) AI/AN as specified in WAC 388-538-060(2) and requests exemption; or

(d) The client has private insurance under a managed care arrangement; or

(e) The client has BHP; or

(f) The client has CHAMPUS; or

(g) The client requests enrollment in the same plan with which the client has private insurance under any arrangement; or

(h) On a case-by-case basis, the client presents evidence that the HO program does not provide medically necessary care ((~~which~~)) that is reasonably available and accessible as offered to the client. MAA considers that medically necessary care is not ((~~considered~~)) reasonably available and accessible when ((~~the client~~)) any of the following apply:

(i) The client is homeless or is expected to live in temporary housing for less than one hundred twenty days from the date the client requests the exemption; ((~~or~~))

(ii) The client is limited English speaking or hearing impaired((~~,~~)) and the client can communicate with a provider who communicates in the client's language or in American Sign Language and is not in an HO ((~~managed care~~)) plan ((~~who speaks in the client's language~~)); ((~~or~~))

(iii) The client is pregnant and wishes to continue her established course of prenatal care with an obstetrical provider who is not available to her through a plan;

(iv) The client shows that travel to ((~~a Medicaid HO provider~~)) an HO PCP is unreasonable when compared to travel to a non-HO ((~~Medicaid provider~~)) PCP. This is shown when any of the following transportation situations apply to the client ((~~has~~)):

(A) ((~~To travel~~)) It is over twenty-five miles one-way to the nearest ((~~managed care~~)) HO PCP who is accepting ((~~clients~~)) enrollees, and the current PCP is closer and not in an available ((~~HO managed care~~)) plan; ((~~or~~))

(B) ~~(A)~~ The travel time ~~(of)~~ is over forty-five minutes one-way to the nearest HO ~~(managed-care)~~ PCP who is accepting ~~(clients)~~ enrollees, ~~(when)~~ and the travel time to the current PCP, who is not in an available ~~(HO-managed care)~~ plan, is less; ~~(or)~~

(C) Other transportation difficulties ~~(making)~~ make it unreasonable to get primary medical services under ~~(managed-care)~~ HO; or

~~((iv) Is pregnant and wishes to continue her established course of prenatal care with an obstetrical provider who is not available to her through an HO plan (or, after enrollment, when the established provider becomes unavailable through HO during the course of treatment); or)~~

(v) ~~(Presents)~~ Other evidence is presented that exemption is appropriate based on ~~(their)~~ the client's circumstances, as evaluated by ~~(the department)~~ MAA.

(3) MAA exempts the ~~(client's period of exemption is limited by the department to)~~ client for the time period the circumstances or conditions that ~~(caused)~~ led to the exemption are expected to exist. 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 the exemption, and their fair hearing rights.

(4) The client ~~(remains exempt)~~ is not enrolled as provided in subsection (1) of this section and receives timely notice by telephone or in writing when ~~(their)~~ MAA approves or denies the client's exemption request ~~(is denied. The department's)~~. If initial denial notice was by telephone, then MAA gives the reasons for the denial ~~(are given)~~ in writing before requiring the client ~~(is required)~~ to enroll in HO. The written notice to the client contains all of the following:

- (a) The action ~~(the department)~~ MAA intends to take, including enrollment information;
- (b) The reason(s) for the intended action;
- (c) The specific rule or regulation supporting the action;
- (d) The client's right to request a fair hearing, including the circumstances under which the fee-for-service status ~~(is continuing)~~ continues, if a hearing is requested; and
- (e) A ~~(full)~~ translation into the client's primary language when the client has limited English proficiency.

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-538-095 ~~(Healthy options)~~ Scope of care for managed care enrollees.** (1) A ~~(client in the healthy options (HO))~~ managed care ~~(program)~~ enrollee is eligible for the categorically needy scope of medical care as described in WAC 388-529-0100. ~~(Those covered services not provided by the HO contracted plan are provided through the department's on-fee-for-service basis.)~~

(a) A client is entitled to timely access to medically necessary services as defined in WAC 388-500-0005.

(b) The plan covers the services included in the HO contract for plan enrollees. In addition, plans may, at their

discretion, cover services not required under the HO contract.

(c) MAA covers the categorically needy services not included in the HO contract for plan enrollees.

(d) Plan enrollees may obtain certain services from either a plan provider or from a medical assistance provider with a DSHS core provider agreement without needing to obtain a referral from the PCP or plan. These services are described in the HO contract, and are communicated to enrollees by MAA and plans as described in (e) of this subsection.

(e) MAA sends each client written information about covered services when the client is required to enroll in managed care, and any time there is a change in covered services. This information describes covered services, which services are covered by MAA, and which services are covered by plans. In addition, MAA requires plans to provide new enrollees with written information about covered services.

(f) MAA covers services on a fee-for-service basis for clients enrolled with a PCCM provider. Except for emergencies, a client's PCCM provider must refer the client for most services not provided by the PCCM provider. The services that require PCCM provider referral are described in the PCCM contract. MAA requires PCCM providers to inform enrollees about covered services and how to obtain them.

(2) For services covered by MAA for managed care enrollees:

(a) MAA covers services rendered by providers with a current DSHS core provider agreement to provide the requested service:

(b) MAA may require the provider to obtain authorization from MAA for coverage of nonemergency services;

(c) MAA determines which services are medically necessary; and

(d) An enrollee may request a fair hearing for review of MAA coverage decisions.

(3) For services covered by plans:

(a) MAA requires plans to contract with a sufficient number of providers as determined by MAA, to deliver the scope of services contracted with the plan in a timely fashion, according to the requirements of the HO contract. Except for emergency services, plans provide covered services to enrollees through their participating providers;

(b) MAA requires plans to provide new enrollees with written information about how enrollees may obtain covered services;

(c) For nonemergency services, plans may require the enrollee to obtain a referral from the PCP, or the provider to obtain authorization from the plan, according to the requirements of the HO contract;

(d) Plans and their providers determine which services are medically necessary given the enrollee's condition, according to the requirements included in the HO contract;

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(e) An enrollee may appeal plan coverage decisions using the plan's appeal process, as described in WAC 388-538-0110. An enrollee may also request a fair hearing for review of a plan coverage decision as described in chapter 388-08 WAC;

(f) A managed care enrollee does not need a PCP referral to receive women's health care services, as described in RCW 48.42.100 from any women's health care provider participating with the plan. Any covered services ordered and/or prescribed by the women's health care provider must meet the plan's service authorization requirements for the specific service.

(4) Unless the plan chooses to cover these services, or an appeal or a fair hearing decision reverses a denial, the following services are not covered:

(a) For all managed care enrollees:

(i) Services that are not medically necessary;

(ii) Services not included in the categorically needy scope of services; and

(iii) Services, other than a screening exam as described in WAC 388-538-100(3), received in a hospital emergency department for nonemergency medical conditions.

(b) For plan enrollees:

(i) Services received from a participating specialist that require prior authorization from the plan, but were not authorized by the plan; and

(ii) Services received from a nonparticipating provider that require prior authorization from the plan that were not authorized by the plan. All nonemergency services covered under the HO contract and received from nonparticipating providers require prior authorization from the plan.

(c) For PCCM enrollees, services that require a referral from the PCCM provider as described in the PCCM contract, but were not referred by the PCCM provider.

(5) 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.

(a) The agreement must state all of the following:

(i) The specific service to be provided;

(ii) That the service is not covered by either MAA or the plan;

(iii) An explanation of why the service is not covered by the plan or MAA, such as:

(A) The service is not medically necessary; or

(B) The service is covered only when provided by a participating provider.

(iv) The enrollee chooses to receive and pay for the service; and

(v) Why the enrollee is choosing to pay for the service, such as:

(A) The enrollee understands that the service is available at no cost from a provider participating with the plan, but the enrollee chooses to pay for the service from a provider not participating with the plan;

(B) The plan has not authorized emergency department services for nonemergency medical conditions and the enrollee chooses to pay for the emergency department's services rather than wait to receive services at no cost in a participating provider's office; or

(C) The plan has determined that the service is not medically necessary and the enrollee chooses to pay for the service.

(b) For limited English proficient enrollees, the agreement must be translated or interpreted into the enrollee's primary language to be valid and enforceable.

(c) 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 because the provider did not satisfy the payor's billing requirements.

AMENDATORY SECTION (Amending Order 3886, filed 8/29/95, effective 9/1/95)

WAC 388-538-100 Managed care emergency services. (1) ((The department shall exempt emergencies and emergency transportation services from routine medical care authorization procedures of)) A managed care enrollee may obtain emergency services, foremergency medical conditions in any hospital emergency department. These definitions differ from the emergency services definition that applies to services covered under MAA's fee-for-service programs (42 U.S.C. 447.53(4)).

(a) The plan covers emergency services for plan enrollees.

(b) MAA covers emergency services for PCCM enrollees.

(2) ((A client shall not be responsible for determining if an emergency exists or for the cost of such determination. For nonemergency conditions, hospital reimbursement for PCCM under WAC 388-87-072(4) shall be limited to a medical evaluation fee as established by the department)) Emergency services for emergency medical conditions do not require prior authorization by the plan, PCP, PCCM provider, or MAA.

(3) ((In a medical emergency, the client shall not be financially responsible for covered managed care services provided)) Emergency services received for nonemergency medical conditions must be authorized by the plan for plan enrollees.

(4) ((When an emergency does not exist, and the client's PCP does not authorize services, the client shall be financially responsible for further services received only when the client is informed and agrees, in writing, to the responsibility before receiving the services as described under WAC 388-87-010)) An enrollee who requests emergency services is entitled to receive an exam to determine if the enrollee has an emergency medical condition.

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**AMENDATORY SECTION** (Amending WSR 97-04-004, filed 1/24/97, effective 2/24/97)

**WAC 388-538-110** (~~(Client grievancees))~~ **Managed care complaints, appeals, and fair hearings.** (1) A ~~(client aggrieved by a decision of a managed care contractor or the department shall have the right to a fair hearing as required under WAC 388-81-040.~~

(2) A client enrolled in a plan:

(a) ~~Shall exhaust a plan's grievance procedure before requesting a fair hearing, except as provided in subsection (3) of this section;~~

(b) ~~Shall receive a written decision containing the following information:~~

(i) ~~Action the plan intends to take;~~

(ii) ~~Reasons for the intended action;~~

(iii) ~~The specific information supporting the action;~~

(iv) ~~Client's right to request a fair hearing;~~

(v) ~~Full translation into the primary language of the limited English proficient recipient.~~

(e) ~~May request a fair hearing when a:~~

(i) ~~Grievance decision is adverse;~~

(ii) ~~Plan does not respond in writing within thirty days from the date the client requests the grievance.~~

(3) ~~The client may request a fair hearing at the same time a grievance is filed when:~~

(a) ~~The plan denies medical care that a client indicates is urgently needed and the client requests a grievance in writing; or~~

(b) ~~The subject matter of the grievance is one for which a client has a fair hearing right under chapters 34.05 RCW, 388-08 WAC, or this chapter.~~

(4) ~~The managed care contractor shall advise a client of the client's right to request a fair hearing at the time the contractor notifies the client of the grievance decision.)~~ **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**.

(2) To ensure the rights of **enrollees** are protected, **MAA** approves each **plan's complaint and appeal process** annually or whenever the **plan** makes a change to the process.

(3) **MAA** requires **plans** to inform **enrollees** in writing within fifteen days of enrollment about their rights and how to use the **plan's complaint and appeal processes**. **MAA** requires **plans** to obtain **MAA** approval of all written information sent to **enrollees**.

(4) **Enrollees** may request assistance from the **plan** when using the **plan's complaint and appeals processes**.

(5) An **enrollee** who complains to a **plan** is entitled to a written or verbal response from the **plan** within the timeline in the **plan's MAA-approved complaint process**.

(6) 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 **appeals a plan, PCP, or provider** decision is entitled to all of the following:

(a) A review of the decision being **appealed**. The review must be conducted by a **plan** representative who was not involved in the decision under appeal;

(b) Continuation of the **service** already being received and which is under **appeal**, until a final decision is made;

(c) A written decision from the **plan**, within the timeline(s) in the **plan** standards, in the **enrollee's** primary language. The **plan** does not need to translate the decision if an **enrollee** with limited English proficiency prefers correspondence in English, and the **plan** documents the **enrollee's** preference. The notice must clearly explain all of the following:

(i) The decision and any action the **plan** intends to take;

(ii) The reason for the decision;

(iii) The specific information that supports the **plan's** decision; and

(iv) Any further **appeal** or fair hearing rights available to the **enrollee**, including the **enrollee's** right to continue receiving the **service** under **appeal** until a final decision is made.

(d) An expedited decision when it is necessary to meet an existing or anticipated acute or urgent medical need.

(7) An **enrollee** may file a fair hearing request without also filing an **appeal** with the **plan** or exhausting the **plan's appeal process**.

(8) The **plan's** medical director or designee reviews all fair hearings requests, and any related **appeals**, when the issues involve medical necessity.

**AMENDATORY SECTION** (Amending Order 3886, filed 8/29/95, effective 9/1/95)

**WAC 388-538-120** (~~(Client))~~ **Enrollee request for a second medical opinion.** (1) (~~The client enrolled in~~) A **managed care** (~~shall have~~) **plan enrollee** has the right to a **timely** referral for a second opinion (~~by another physician or specialist~~) upon request when:

(a) (~~When the client~~) The **enrollee** needs more information (~~as to the medical necessity of medical~~) about treatment recommended by the (~~PCP~~) **provider or plan**; or

(b) (~~If the client~~) The **enrollee** believes the (~~PCP~~) **plan** is not authorizing **medically necessary** care.

(2) (~~If the client is enrolled in a plan, the second opinion physician or specialist shall be a participating provider in the plan. If the client is enrolled with a PCCM, which does not involve a plan, the client shall have the right to a second opinion by another provider or specialist, who is a medical assistance provider~~) A **managed care plan enrollee** has a right to a second opinion from a primary or specialty care **physician** who is participating with the **plan**. At the **plan's** discretion, a clinically appropriate nonparticipating **provider** who is agreed upon by the **plan** and the **enrollee** may provide the second opinion.

(3) (~~When medically necessary, the client shall be promptly referred to:~~

(a) ~~Another participating physician or specialist of a plan, when enrolled in a plan; or~~

(b) ~~Another provider or specialist when enrolled under PCCM, which does not involve a plan))~~ **PCCM provider enrollees** have a right to a **timely** referral for a second opinion by another **provider** who has a core **provider** agreement with **MAA**.

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-538-130 ((Removal of client from)) Ending enrollment in healthy options.** (1) ~~((Only the department has authority to remove a client from the healthy options (HO) program, but requests for removal can be made by the client, their))~~ **An enrollee, the enrollee's** representative as defined in RCW 7.70.065, or ~~((by the client's HO))~~ plan may request **MAA to end enrollment**. Only **MAA** has authority to remove an **enrollee** from the **HO** program. Pending ~~((the department's))~~ **MAA's** final decision, the ~~((client))~~ **enrollee** remains **enrolled** unless staying in **HO** ~~((managed care))~~ would adversely affect the ~~((client's))~~ **enrollee's** health status.

(2) ~~((The department may remove a client from))~~ **MAA ends enrollment in HO** when the ~~((client))~~ **enrollee meets any of the following**:

(a) Is no longer eligible for a medical program subject to enrollment; or

(b) Requests to be removed from **HO** ~~((, and the department approves))~~ according to ~~((the same criteria given in))~~ WAC 388-538-080 ~~((Exemption); or))~~ (2)(a), (c), or (h), and **MAA** approves the request;

(c) ~~((Is))~~ **Becomes a Medicare** beneficiary;

(d) Is scheduled for a surgery with a **provider** not available to the **enrollee** in the **enrollee's** current **plan** and the surgery is scheduled to be performed within the first thirty days of enrollment;

(e) Is pregnant and requests to continue her established course of prenatal care with an obstetrical **provider** who is not available through her current **plan**;

(f) Notifies **MAA** of private insurance under a **managed care arrangement**;

(g) Notifies **MAA** of **BHP** coverage;

(h) Notifies **MAA** of **CHAMPUS** coverage;

(i) Notifies **MAA** of private insurance with the same **plan** as the **enrollee's** current **HO plan** under any arrangement; or

(j) Asks to be taken out of the current **plan** in order to stay with the **enrollee's** established **provider** but is willing to enroll in the established **provider's plan** for the next enrollment month. **MAA** reviews subsection (2)(b), (d), and (e) in this section when reviewing a request to end a **client's** enrollment per this subsection. **MAA's** decisions on those requests include all of the following:

(i) The decision is given verbally or in writing; and

(ii) Verbal and written notices include the reason for the decision and information on hearings so the **enrollee** may **appeal** the decision; and

(iii) If the request to **end enrollment** is approved, it may be effective back to the beginning of the month the request is made; and

(iv) If the request to **end enrollment** is denied, and the **enrollee** requests a hearing; the **enrollee** remains enrolled in **te plan** until the hearing decision is made as provided in subsection (1) of this section.

(3) ~~((The department may remove a client from HO plan enrollment when the client's HO plan substantiates in writing, to the department's satisfaction that:~~

(a) The client's behavior is inconsistent with the HO plan's rules and regulations, such as intentional misconduct; and

(b) After medical review and treatment interventions, the client's behavior continues to prevent the provider from safely or prudently providing medical care to the client; and

(c) The client received written notice from their HO plan of the plan's intent to request the client's removal. The plan's notice to the client must include the client's right to use the plan's appeal process to review the plan's request and the client's right to use the department fair hearing process.

The requirement that the plan notify the client is waived if the client's conduct presents the threat of imminent harm to others)) **MAA ends enrollment** for the period of time the circumstances or conditions that led to ending the **enrollment** are expected to exist. If the request to **end enrollment** is approved for a limited time, the client is notified in writing or by telephone of the time limitation, the process for renewing the disenrollment, and their fair hearing rights.

(4) ~~((Within thirty days of receiving the plan))~~ **MAA does not approve an enrollee's** request to ~~((remove a client from HO enrollment, a decision is made by the department. Before a decision is made an attempt is made by the department to contact the client and learn the client's perspective. If the plan's request to remove the client from HO))~~ **end enrollment** ~~((is approved, the client will be given advance and adequate notice including hearing rights information (ten days in advance of the effective date of the removal))~~ solely to pay for services received but not authorized by the plan.

(5) ~~((An HO plan's request to remove a client from HO enrollment will not be approved when it is solely due to an adverse change in the client's health or the cost of meeting the client's needs))~~ The **enrollee** remains in **HO** as provided in subsection (1) of this section and receives timely notice by telephone or in writing when **MAA** approves or denies the **enrollee's** request to end enrollment. Except as provided in subsection (2)(j) of this section, **MAA** gives the reasons for a denial in writing. The written denial notice to the **enrollee** contains all of the following:

(a) The action **MAA** intends to take;

(b) The reason(s) for the intended action;

(c) The specific rule or regulation supporting the action;

(d) The **enrollee's** right to request a fair hearing; and

(e) A translation into the **enrollee's** primary language when the **enrollee** has limited English proficiency.

(6) MAA may end an enrollee's enrollment in a plan when the enrollee's plan substantiates in writing, to MAA's satisfaction, that:

(a) The enrollee's behavior is inconsistent with the plan's rules and regulations, such as intentional misconduct; and

(b) After the plan has provided:

(i) Clinically appropriate evaluation(s) to determine whether there is a treatable problem contributing to the enrollee's behavior; and

(ii) If so, has provided clinically appropriate referral(s) and treatment(s), but the enrollee's behavior continues to prevent the provider from safely or prudently providing medical care to the enrollee; and

(c) The enrollee received written notice from the plan of the plan's intent to request the enrollee's removal, unless MAA has waived the requirement for the plan because the enrollee's conduct presents the threat of imminent harm to others. The plan's notice to the enrollee must include both of the following:

(i) The enrollee's right to use the plan's appeal process to review the plan's request to end the enrollee's enrollment; and

(ii) The enrollee's right to use the department fair hearing process.

(7) MAA makes a decision to remove an enrollee from enrollment with a plan within thirty days of receiving the plan's request to do so. Before making a decision, MAA attempts to contact the enrollee and learn the enrollee's perspective. 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.

(8) MAA does not approve a plan's request to remove an enrollee from HO when the request is solely due to an adverse change in the enrollee's health or the cost of meeting the enrollee's needs.

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.

AMENDATORY SECTION (Amending Order 3886, filed 8/29/95, effective 9/1/95)

WAC 388-538-140 Quality of care. ((The department shall require:))

(1) ((A plan to appoint a medical director or designee who:

(a) Shall be responsible for the plan's quality assurance program and shall review all plan grievances; and

(b) Furnishes MAA with a copy of all grievances and a plan's response to such grievances.

(2) A PCCM not involving a plan to provide adequate documentation for quality assurance review.

(3) A plan or PCCM to have in place a method)) In order to assure that managed care enrollees receive appropriate

access to quality health care and services. MAA does all of the following:

(a) Requires plans to have a fully operational quality assurance system that meets a comprehensive set of quality improvement program (QIP) standards.

(b) Monitors plan performance through on-site visits and other audits, and requires corrective action for deficiencies that are found.

(c) Requires plans to report annually on standardized clinical performance measures that are specified in the contract with MAA, and requires corrective action for substandard performance.

(d) Contracts with a professional review organization to conduct independent external review studies of selected health care and service delivery.

(e) Conducts enrollee satisfaction surveys.

(f) Annually publishes plan performance on certain clinical measures and enrollee satisfaction surveys and makes reports of site monitoring visits available upon request.

(2) MAA requires plans to have a method to assure consideration of the unique needs of ((persons with special health care needs as defined in WAC 388-538-050 and to assist with)) enrollees with chronic conditions. The method includes:

(a) Early identification ((of persons with special health care needs));

(b) Timely access to health care; and

(c) Coordination of health service delivery and community linkages.

(((4) The department shall conduct outreach of various types to accommodate the unique communication needs of some members of the populations served.

(5) The department shall ensure that clients are given the most important relevant information and a variety of ways to enroll or request exemptions and disenrollments.

(6) The plan or PCCM shall make reasonable and appropriate accommodations as required under the Americans with Disabilities Act (ADA) for clients who have a mental, physical, or sensory impairment or another limitation which affects the clients' abilities to understand written notices and/or other types of communications.))

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-538-001	Purpose.
WAC 388-538-090	Client's choice of primary care provider.
WAC 388-538-150	Managed care medical audit.



**WSR 00-05-007**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed February 4, 2000, 9:21 a.m.]

Date of Adoption: February 4, 2000.

Purpose: The WACs being repealed are currently in conflict with state statute. This repeal will eliminate the deprivation requirement for TANF/SFA. The amended WACs will remove stricter restrictions for TANF/SFA, expand TANF/SFA eligibility for some 18-21 year old children, and expand SFA eligibility for certain pregnant felons.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-430-0001, 388-430-0005, 388-430-0010, 388-430-0015, 388-430-0020 and 388-430-0025; and amending WAC 388-235-9000, 388-400-0005, 388-400-0010, 388-404-0005, 388-408-0020, 388-442-0010, and 388-480-0001.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 74.04.510.

Adopted under notice filed as WSR 99-23-033 on November 10, 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 7, Repealed 6.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 7, Repealed 6.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 7, Repealed 6.

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 7, Repealed 6.

Effective Date of Rule: Thirty-one days after filing.

February 4, 2000

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending Order 3824, filed 1/11/95, effective 2/11/95)

**WAC 388-235-9000** How benefits from other programs affect your eligibility for general assistance-unemployable. You cannot get general assistance unemployable (GA-U) benefits if:

(1) ~~((The department shall deny a request for, or terminate, general assistance unemployable (GAU) to a person:~~

~~(a) Eligible for or receiving aid to families with dependent children (AFDC);~~

~~(b) Eligible for or whose needs are met by SSI, except as provided under WAC 388-235-9300;~~

~~(c) Under sanction for failure to comply with AFDC or supplemental security income (SSI) requirements;~~

~~(d) Failing or refusing to cooperate without good cause in obtaining AFDC or SSI;~~

~~(e) Unemployable due to alcohol or drug addiction. The department shall refer such person to the alcoholism and drug addiction treatment and support program.~~

~~(2) If otherwise eligible, the department shall not deny requests for GAU to a person found ineligible for AFDC, as described under WAC 388-215-1820)) You are eligible for temporary aid for needy families (TANF) benefits:~~

~~(2) You are eligible for state family assistance (SFA) benefits unless you meet the exception allowed under WAC 388-400-0010;~~

~~(3) You have the ability to, but refuse to meet a TANF or SFA eligibility rule;~~

~~(4) You are eligible for Supplemental Security Income (SSI) benefits;~~

~~(5) You are eligible to have your needs met by SSI;~~

~~(6) You were denied benefits or your benefits were terminated by SSI for failing to follow a SSI program rule or application requirement; or~~

~~(7) We find you cannot work primarily due to alcohol or drug addiction. We will refer you to the alcoholism and drug treatment and support program.~~

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-400-0005** Who is eligible for temporary assistance for needy families~~((General eligibility requirements.))~~ (1) ~~((To be eligible for temporary assistance for needy families (TANF), a child must:~~

~~(a) Meet the age requirements under WAC 388-404-0005;~~

~~(b) Live in the home of a relative as required under chapter 388-454 WAC;~~

~~(c) Be deprived of parental support and care as required under chapter 388-430 WAC; and~~

~~(d) Live with a parent who is not ineligible for TANF due to the time limit requirements of WAC 388-484-0005.~~

~~(2) To be eligible for TANF, a person must:~~

~~(a)) You can get temporary assistance for needy families (TANF), if you:~~

~~(a) Can be included in a TANF/SFA assistance unit as defined in WAC 388-408-0015 through 388-408-0030;~~

~~(b) Meet the citizenship/alien status requirements of WAC 388-424-0005;~~

~~((b)) (c) Reside in the state of Washington, or, if you are a child, live with a ((parent or other)) caretaker relative who meets the state residency requirements of WAC 388-468-0005;~~

~~((e) Be)) (d) Are in financial need as specified under chapters 388-450, 388-470 and 388-488 WAC;~~

~~((d)) (e) Assign ((any)) your rights to child support and cooperate in establishing paternity and collecting child support as required under ((chapter 388-422)) WAC 388-422-0005 through 388-422-0030;~~

~~((e)) (f) Provide ((a)) your Social Security number as required under WAC 388-476-0005;~~



~~((f)) (g) Cooperate in a review of your eligibility as required under WAC 388-434-0005;~~

~~((g)) (h) Cooperate in a quality assurance review as required under WAC ((388-464-0005)) 388-464-0001;~~

~~((h)) (i) Participate in the WorkFirst program as required under chapter 388-310 WAC;~~

~~((i) Not be participating in a strike as defined under WAC 388-480-0005;))~~

~~(j) ((Report circumstances monthly as required under chapter 388-456 WAC;~~

~~(k)) Report changes of circumstances as required under ((chapter 388-418)) WAC 388-418-0005; ((and~~

~~(l) If a pregnant woman who is not otherwise eligible for TANF; meet the requirements of WAC 388-462-0010.~~

~~(3) TANF assistance units for children and caretaker relatives are established according to chapter 388-408 WAC.~~

~~(4) The following persons are not eligible for TANF:~~

~~(a) Persons) (k) Meet the requirements of WAC 388-462-0010, if you are pregnant; and~~

~~(l) Meet the living arrangement and school attendance requirements of WAC 388-486-0005 and 388-486-0010, if you are an unmarried pregnant and parenting teen.~~

~~(2) In addition to rules listed in subsection (1) of this section, a child must meet the following rules to get TANF:~~

~~(a) Meet the age requirements under WAC 388-404-0005; and~~

~~(b) Live in the home of a relative as required under WAC 388-454-0005; or~~

~~(c) If living with a parent, that parent cannot have exhausted their sixty-month lifetime limit of TANF or SFA cash benefits as defined in WAC 388-484-0005.~~

~~(3) You cannot get TANF if you have been:~~

~~(a) Convicted of certain felonies and other crimes as specified in ((chapter 388-442)) WAC 388-442-0010; and~~

~~(b) ((Persons)) Convicted of unlawful practices in obtaining public assistance as specified in ((chapter 388-446)) WAC 388-446-0005 and 388-446-0010.~~

~~((5) Unmarried pregnant and parenting teens must meet the living arrangement and school attendance requirements of chapter 388-486 WAC.))~~

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-400-0010 Who is eligible for state family assistance**~~((—Summary of eligibility requirements.))~~? (1) To be eligible for state family assistance (SFA), ~~((a person must:~~

~~(a) Meet all temporary assistance for needy families (TANF) eligibility requirements except those for citizenship and alien status; and~~

~~(b) Meet the citizenship/residence requirements as specified in WAC 388-424-0015.~~

~~(2) An assistance unit is not eligible for SFA if it includes an adult who has received SFA, TANF, or a combination of SFA and TANF for a total of sixty months since August 1, 1997. Months are disregarded as specified under WAC 388-484-0005 when calculating the number of months an adult family member has received SFA or TANF.~~

~~(3) Assistance units for families with members who meet SFA and TANF citizenship/alien status requirements will be established under the TANF assistance unit rules in chapter 388-408 WAC)) certain aliens must meet Washington state residency requirements as listed in WAC 388-424-0015.~~

~~(2) You are eligible for SFA if you are not eligible for temporary assistance for needy families for the following reasons:~~

~~(a) You are a qualified alien and have been in the United States for less than five years as described in WAC 388-424-0010;~~

~~(b) You are an alien who is permanently residing in the United States under color ow law (PRUCOL) as defined in WAC 388-424-0005;~~

~~(c) You are a nineteen or twenty-year-old student that meets the education requirements of WAC 388-404-0005;~~

~~(d) You are a caretaker relative of a nineteen or twenty-year-old student that meets the education requirements of WAC 388-404-0005; or~~

~~(e) You are a pregnant woman who has been convicted of:~~

~~(i) Misrepresenting their residence in order to receive benefits from two or more states at the same time; or~~

~~(ii) A drug-related felony as described in WAC 388-442-0010.~~

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-404-0005 ((Age of child eligible)) How does a child's age affect their eligibility for TANF, SFA ((and) or GA-H((?))** (1) To be eligible for temporary assistance for needy families (TANF), state family assistance (SFA) or general assistance for children (GA-H), a child must be:

~~((1)) (a) Under age eighteen; or~~

~~((2)) (b) Under age nineteen((;)), and((:~~

~~(a) Participating full-time in a secondary school program or the equivalent level of vocational or technical training; and~~

~~(b) Reasonably expected to complete the program by the end of the month in which the child reaches age nineteen)) participating full-time in a secondary education program or the equivalent level of vocational or technical training.~~

~~(i) "Participating" means the educational or training institution has determined:~~

~~(A) The child's school attendance is satisfactory; and~~

~~(B) The child is making acceptable progress toward completing the program.~~

~~(ii) "Full-time" attendance and course load requirements are defined by the educational or training institution.~~

~~(2) A child who does not qualify for assistance under subsection (1) of this section may qualify for SFA if the child is under age twenty-one, and:~~

~~(a) Receiving a special education due to their disability as specified in RCW 28A.155.020; or~~

~~(b) Participating full-time in a secondary education program or the equivalent level of vocational training as defined in (1)(b) above.~~

(3) Children who receive SFA under WAC 388-404-0005 and who are nineteen years of age or older are not eligible for family medical or SFA related medical.

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-408-0020 ((Persons)) Who is excluded from TANF and SFA assistance units((-))? ((The following persons may not be included in a TANF or SFA assistance unit:

(1) Persons who are ineligible for reasons other than income and resources, except for adult family members who would make the family ineligible due to the TANF/SFA time limit as specified in chapter 388-484 WAC. Examples of persons who are ineligible for reasons other than income and resources are:

(a) Children who are not deprived of parental support and care as specified in chapter 388-430 WAC;

(b) Aliens who do not meet citizenship or alien status requirements for TANF or SFA as specified in chapter 388-424 WAC; and

(c) Children who do not live with relatives as specified in chapter 388-454 WAC.

(2) An adopted child if:

(a) The child) (1) For the purpose of this section, "excluded" means that you will not be included when the department counts the number of people in the assistance unit to determine the payment standard for that assistance unit.

(2) This section describes the reasons why the department may exclude you from the TANF or SFA assistance unit.

(a) The department cannot exclude you from TANF or SFA assistance unit if the only reason you want to be excluded is that your income or resources make the assistance unit ineligible or reduces the amount of assistance it can receive.

(b) If the department excludes you from the TANF or SFA assistance unit, we will not count your income unless you are financially responsible for a member of the assistance unit. The rules for determining who is financially responsible and how the department counts their income and resources are WAC 388-450-0095 through 388-450-0130.

(3) The department will exclude you from an assistance unit if you are:

(a) An adopted child who:

(i) Receives federal, state or local adoption assistance; and

((b)) (ii) Including ((the child)) you in the assistance unit would reduce the assistance unit's grant due to budgeting the adoption assistance income.

((3) Minor parents or children who have)

(b) A minor parent or child who has been placed in Title IV-E, state, or locally funded foster care except for temporary absences allowed for under WAC 388-454-0015;

((4)) (c) An adult parent in a two-parent household when:

((a)) (i) The other parent is unmarried and under the age of eighteen; and

((b)) (ii) The department determines the living arrangement is not appropriate under WAC 388-486-0005.

((5)) (d) A recipient of SSI benefits((-)).

(e) Not included in the assistance unit at the option of your family as allowed under WAC 388-450-0025; or

(f) Ineligible for TANF or SFA because you do not meet an eligibility requirement that is not related to your ownership of income or resources:

(i) Eligibility requirements for TANF are listed in WAC 388-400-0005.

(ii) Eligibility requirements for SFA are listed in WAC 388-400-0010.

AMENDATORY SECTION (Amending WSR 99-16-024, filed 7/26/99, effective 9/1/99)

WAC 388-442-0010 ((Felons)) How being a felon impacts your eligibility for benefits. (1) ((A person is)) You are not eligible for TANF/SFA, GA and/or food assistance if ((the person is)) you are:

(a) Fleeing to avoid prosecution, custody, or confinement after conviction of a crime, or an attempt to commit a crime which is considered a felony in the place from which ((they were)) you are fleeing; or

(b) Violating a condition of probation or parole as determined by an administrative body or court that has the authority to make this decision.

(2) ((A person is)) You are not eligible for TANF/SFA and/or food assistance if you were convicted of a felony committed after August 21, 1996 involving an element of possession, use, or distribution of an illegal drug, unless ((the person)) you:

(a) ((Was)) Were convicted only of possession or use of an illegal drug; and

(b) ((Was)) Were not convicted of a felony for illegal drugs within three years of the latest conviction; and

(c) ((Was)) Were assessed as chemically dependent by a program certified by the division of alcohol and substance abuse (DASA); and

(d) ((Is)) Are taking part in or ((has)) have completed a rehabilitation plan consisting of chemical dependency treatment and job services.

(3) If you are pregnant, but cannot get TANF/SFA because you were convicted of a drug-related felony, you can get SFA while you are pregnant if you meet all other TANF/SFA eligibility criteria under WAC 388-400-0005 or 388-400-0010.

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-480-0001 ((Strikers)) How being on strike effects food assistance benefits. (1) A strike is ((defined as a concerted)) a work stoppage, slowdown or other interruption of work ((initiated)) caused by employees. ((2) An individual is) You are not considered ((a striker)) to be on strike if you are:

(a) Locked out by ((the)) your employer;

(b) Unable to work ((as a result of)) because work is not available as a result of striking employees;

(c) Not ~~((part of the bargaining unit))~~ a member of the bargaining unit on strike and ~~((fearful of personal injury from crossing))~~ you fear someone may physically hurt you if you cross a picket line(s); or

(d) Exempt from work registration the day before the strike ~~((t))~~ for any reason(s) other than ~~((employment))~~ being employed over thirty hours per week(t)).

~~(((3) TANF/SFA, GA-H or RCA recipients are not eligible for any month in which a parent or the only eligible child is participating in a strike on the last day of the month.~~

~~(4) In TANF/SFA, GA-H or RCA assistance units, if a member other than the parent or only eligible child is on strike on the last day of the month, only that person is ineligible.~~

~~(5) Applicants)~~

(2) If you apply for food assistance ~~((are ineligible if participating in a)), you will not be eligible if you are on strike unless:~~

(a) ~~((The))~~ Your household met all income and resource eligibility standards the day ~~((prior to))~~ before the strike; and

(b) ~~((Is))~~ You are otherwise eligible at the time ~~((of application))~~ you apply.

~~(((6) Food assistance households are not eligible for))~~

(3) You will not receive an increase in your food assistance benefits solely due to ~~((a decrease in))~~ receiving less income as a direct result of ~~((participation in a))~~ being on strike.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 388-430-0001 Establishing deprivation.
- WAC 388-430-0005 Deprivation due to absence.
- WAC 388-430-0010 Definition of maintenance, physical care and guidance.
- WAC 388-430-0015 Deprivation due to incapacity.
- WAC 388-430-0020 Deprivation due to unemployment.
- WAC 388-430-0025 Work quarters.

**WSR 00-05-008  
PERMANENT RULES  
INTERAGENCY COMMITTEE  
FOR OUTDOOR RECREATION**

[Filed February 4, 2000, 1:23 p.m.]

Date of Adoption: January 24, 2000.

Purpose: Provide greater flexibility and efficiency in utilizing any federal monies that may become available under the land and water conservation fund.

Citation of Existing Rules Affected by this Order: Amending WAC 286-40-020 Funding and candidate selection.

Statutory Authority for Adoption: RCW 43.99.080(2).  
Adopted under notice filed as WSR 99-24-105 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 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 28, 2000

Greg Lovelady  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 97-08-003, filed 3/20/97, effective 4/20/97)

**WAC 286-40-020 Funding and candidate selection.**

Funding for projects approved under this chapter is from the recreation resource account. Candidate project(s) are ~~((selected))~~ recommended by the director, and approved by the committee ~~((, from among those submitted to the Washington wildlife and recreation program (chapter 286-27 WAC)))~~. Selection criteria include(s):

~~((1))~~ (1) Adherence to the outdoor recreation account planning requirements of WAC 286-27-040;

~~((2))~~ (2) How well the project(s) has ranked in the evaluation;

~~((3))~~ (2) How well the project(s) meets needs identified in the state-wide comprehensive outdoor recreation planning program and the general goals identified in WAC 286-04-030;

~~((4))~~ (3) How well the project(s) meets the criteria in the Land and Water Conservation Fund Grants Manual;

~~((5))~~ (4) An assessment of how quickly the project(s) will progress through planning and implementation stages.

**WSR 00-05-010  
PERMANENT RULES  
STATE BOARD OF EDUCATION**

[Filed February 4, 2000, 2:56 p.m.]

Date of Adoption: January 12, 2000.

Purpose: Amendment to WAC 180-51-075 allowing military dependent secondary school students who have completed and passed a course of study in state history and government from without the state to their principal waive the Washington state history and government requirement.

PERMANENT

Citation of Existing Rules Affected by this Order:  
Amending WAC 180-51-075.

Statutory Authority for Adoption: RCW 28A.230.170, 28A.230.060, and 28A.230.090.

Adopted under notice filed as WSR 99-24-119 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 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 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 4, 2000

Larry Davis

Executive Director

~~to RCW 28A.230.170 or if this statutory requirement is fulfilled through an alternative learning experience.~~

~~The Washington state history and government requirement for twelfth grade students who transfer from without the state who have or will have earned two credits in social studies at graduation but who will not be able to make normal progress toward graduation with their class without an exception may have this requirement waived by their principal;))~~

(b) Secondary school students who have completed and passed a state history and government course of study in another state may have the Washington state history and government requirement waived by their principal. The study of the United States and Washington state Constitutions required under RCW 28A.230.170 shall not be waived, but may be fulfilled through an alternative learning experience approved by the school principal pursuant to a written district policy. For purposes of this subsection the term "secondary school students" shall mean a student who is in one of the grades seven through twelve.

(3) Pursuant to ~~((the provision of chapter 28A.230 RCW))~~ WAC 180-51-060, one credit shall be required in contemporary world history, geography, and problems. Courses in economics, sociology, civics, political science, international relations, or related courses with emphasis on current problems may be accepted as equivalencies.

**AMENDATORY SECTION** (Amending Order 5-94, filed 1/19/94, effective 2/19/94)

**WAC 180-51-075 Social studies requirement—Mandatory courses—Equivalencies.** The social studies requirement in WAC 180-51-060 shall consist of the following mandatory courses or equivalencies:

(1) Pursuant to ~~((the provisions of RCW 28A.230.170, 28A.230.060, and 28A.230.090))~~ WAC 180-51-060, one credit shall be required in United States history and government which shall include study of the Constitution of the United States. No other course content may be substituted as an equivalency for this requirement~~((;))~~.

(2)(a) Pursuant to the provisions of RCW 28A.230.170, ~~((28A.230.060, and))~~ 28A.230.090, and WAC 180-51-060, one-half credit shall be required in Washington state history and government which shall include study of the Constitution of the state of Washington and is encouraged to include information on the culture, history, and government of the American Indian people who were the first inhabitants of the state.

~~((The provisions of WAC 180-51-030 notwithstanding, the Washington state history and government course requirement may be fulfilled by students in grades seven or eight or both. Credits earned in grades seven or eight shall not be applied toward the minimum number of credits required for high school graduation.~~

~~For students who transfer from without the state, north-west history and government may serve as an equivalent course for Washington state history and government in grades seven through twelve if such course included the study of the Constitution of the state of Washington pursuant~~

## WSR 00-05-011

### PERMANENT RULES

### MILITARY DEPARTMENT

[Filed February 4, 2000, 3:28 p.m.]

Date of Adoption: February 4, 2000.

Purpose: The separate rules regarding local emergency services organizations, plans and programs are being repealed. These rules are redundant and covered within another department rule.

Citation of Existing Rules Affected by this Order:  
Repealing chapters 118-06, 118-07, and 118-08 WAC.

Statutory Authority for Adoption: RCW 38.52.050.

Adopted under preproposal statement of inquiry filed as WSR 00-01-118 on December 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 21.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 21.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 21.

Effective Date of Rule: Thirty-one days after filing.  
February 4, 2000  
Timothy J. Lowenberg  
Major General  
Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 118-03-330 Uniform procedural rules

REPEALER

The following chapters of the Washington Administrative Code are repealed:

- Chapter 118-06 WAC Local emergency services organizations
- Chapter 118-07 WAC Local emergency services plans
- Chapter 118-08 WAC Local emergency services program

**WSR 00-05-012**  
**PERMANENT RULES**  
**MILITARY DEPARTMENT**  
[Filed February 4, 2000, 3:30 p.m.]

Date of Adoption: February 4, 2000.  
Purpose: This section regarding uniform procedural rules is being repealed. The rule this section was based upon was repealed in 1991.

Citation of Existing Rules Affected by this Order: Repealing WAC 118-03-330 Uniform procedural rules.

Statutory Authority for Adoption: RCW 38.52.050.

Adopted under preproposal statement of inquiry filed as WSR 00-01-117 on December 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 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 1.

Effective Date of Rule: Thirty-one days after filing.  
February 4, 2000  
Timothy J. Lowenberg  
Major General  
Director

**WSR 00-05-020**

**PERMANENT RULES**  
**DEPARTMENT OF COMMUNITY,**  
**TRADE AND ECONOMIC DEVELOPMENT**

[Filed February 8, 2000, 11:25 p.m.]

Date of Adoption: February 8, 2000.

Purpose: To provide grants to local communities to provide rental assistance and operating assistance for existing transitional housing for homeless families with children.

Citation of Existing Rules Affected by this Order: New section to chapter 365-120 WAC.

Statutory Authority for Adoption: Chapter 43.63A RCW, RCW [43.]63A.650, and E2SHBa 1493 (chapter 267, Laws of 1999).

Adopted under notice filed as WSR 99-24-116 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.  
February 8, 2000  
Jean L. Ameluxen  
Director of  
Intergovernmental Relations

**Chapter 365-120 WAC**

**STATE FUNDING OF LOCAL EMERGENCY SHELTER AND TRANSITIONAL HOUSING, OPERATING AND RENT PROGRAMS**

AMENDATORY SECTION (Amending Order 87-12, filed 9/18/87)

**WAC 365-120-010 Authority.** These rules are adopted under the authority of RCW 43.63A.060 which provides that the director shall make such rules and regulations and do all

PERMANENT

other things necessary and proper to carry out the purposes of chapter 43.63A RCW. RCW 43.63A.065(2) provides that among its functions and responsibilities the department shall administer state and federal grants and programs which are assigned to the department by the governor or the legislature. RCW 43.63A.650 provides that the department shall be the principal state department responsible for providing shelter and housing services to homeless families with children.

AMENDATORY SECTION (Amending Order 85-19, filed 1/6/86)

**WAC 365-120-020 Purpose.** The purpose of this chapter is to set forth the conditions and procedures under which state funding will be made available to assist local emergency shelter assistance or transitional housing, operating and rent programs.

AMENDATORY SECTION (Amending Order 87-12, filed 9/18/87)

**WAC 365-120-030 Definitions.** ((1) "Department" means the department of community development.

(2) "Director" means the director of the department of community development.

(3) "Emergency shelter assistance program" means the statewide administrative activities carried out within the department of community development to allocate, award, and monitor state funds appropriated to assist local emergency shelter programs.

(4) "Emergency shelter program" means a program within a local agency or organization that provides emergency shelter services.

(5) "Applicant" means a public or private nonprofit organization including local government entities, or a combination thereof, which applies for state emergency shelter funds.

(6) "Contractor" means an applicant which has been awarded state funds under the emergency shelter assistance program and which has entered into a contract with the department of community development to provide emergency shelter services.

(7) "Lead agency contractor" means an applicant which has been awarded state funds under the emergency shelter assistance program and which has entered into a contract with the department of community development to administer subcontracts with one or more local agency providers of emergency shelter services.

(8) "Homeless" means persons, including families, who, on one particular day or night, do not have a decent and safe shelter nor sufficient funds to purchase a place to stay.

(9) "Voucher system" means a method of purchasing emergency shelter services by the night using a notification coupon.

(10) "Religious service" means any sectarian or non-denominational service, rite, or meeting that involves worship of a higher being.

(11) "Short term" means one to thirty one days.

(12) "Families" means one or more adults with dependent children under 18.

(13) "Congregate care facility" means a licensed boarding home or a licensed private establishment which has entered into a congregate care contract with the department of social and health services (WAC 388-15-560).

(14) "Group care facility" means an agency maintained and operated for the care of a group of children on a 24-hour basis (WAC 388-73-014(1)).

(15) "Crisis residential center" means an agency operated under contract with the department of social and health services to provide temporary protective care to children in a semi-secure residential facility in the performance of duties specified and in a manner provided in RCW 13.32A.010 through 13.32A.200 and 74.13.032 through 74.13.036 (WAC 388-73-014(6)).

(16) "Detoxification center" means a public or private agency or program of an agency which is operated for the purpose of providing residential detoxification services for those suffering from acute alcoholism.

(17) "Current or continuous provider" means an agency or organization that currently provides or has provided emergency shelter services for some period during the most recent fiscal year.

(18) "Participating agency" means a local public or private nonprofit organization which enters into a subcontract with a lead agency contractor to provide emergency shelter services.

(19) "Safe home" means a private home where short term emergency shelter is provided primarily to victims of domestic violence. (1) "Applicant" means a public or private nonprofit organization or agency, including local government entities, or a combination thereof, which applies for state emergency shelter or transitional housing program funds.

(2) "Congregate care facility" means a licensed boarding home or a licensed private establishment which has entered into a congregate care contract with the department of social and health services.

(3) "Contractor" means an applicant who has been awarded state funds under the emergency shelter or transitional housing, operating and rent program and which has entered into a contract with the department to provide emergency shelter or transitional housing services.

(4) "Crisis residential center" means an agency operated under contract with the department of social and health services to provide temporary protective care to children in a semi-secure residential facility in the performance of duties specified and in a manner provided in RCW 13.32A.010 through 13.32A.200 and 74.13.032 through 74.13.036.

(5) "Current or continuous provider" means an agency or organization that currently provides or has provided emergency shelter assistance for some period during the most recent fiscal year.

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

(7) "Detoxification center" means a public or private agency or program of an agency that is operated for the purpose of providing residential detoxification services for those suffering from acute alcoholism.

(8) "Director" means the director of the department of community, trade, and economic development.

(9) "Emergency shelter assistance program" means the state-wide administrative activities carried out within the department of community, trade, and economic development to allocate, award, and monitor state funds appropriated to assist local emergency shelter and homelessness prevention programs.

(10) "Emergency shelter program" means a program within a local agency or organization that provides emergency shelter assistance.

(11) "Families" means pregnant women or one or more adults with dependent children under eighteen, including pregnant and parenting teens.

(12) "Group care facility" means an agency maintained and operated for the care of a group of children on a twenty-four-hour basis.

(13) "Homeless" means persons, including families, who, on one particular day or night, do not have a decent and safe shelter or sufficient funds to purchase a place to stay.

(14) "Homelessness prevention" means the following activities or programs designed to prevent the incidence of homelessness:

(a) Subsidies to help defray rent or mortgage arrearages for individuals or families faced with eviction or foreclosure.

(b) Security and damage deposits to enable a homeless individual or family to move into their own housing.

(c) Initial rent costs to enable a homeless individual or family to move into his or her own housing.

(d) Case management to assist individuals and families to remain in their housing or to look for permanent housing.

(e) Landlord-tenant mediation, conciliation or other forms of dispute resolution or negotiation which will keep people in housing or help people with housing barriers to obtain a lease.

(15) "Housing stability plan" means a set of goals and course of action set by the assisted family and housing support staff, to aid the family in transitioning to stable housing and the highest attainable level of self-sufficiency.

(16) "Participating agency" means a local public or private nonprofit organization, which enters into a subcontract with a lead agency contractor to provide emergency shelter assistance.

(17) "Religious service" means any sectarian or non-denominational service, rite, or meeting that involves worship of a higher being.

(18) "Rental assistance" means no less than ninety-one days and no more than twenty-four months of assistance to help homeless families with children pay the cost of rent and utilities for amounts that are consistent with local practices.

(19) "Safe home" means a private home where short-term emergency shelter is provided primarily to victims of domestic violence.

(20) "Short-term" means one to ninety days.

(21) "Transitional housing" means housing provided for no less than ninety-one days and no more than twenty-four months.

(22) "Transitional housing, operating and rent program" or "transitional housing program" means the state-wide administrative activities carried out within the department to allocate, award and monitor state funds appropriated to local communities to provide operating assistance for transitional

housing units and partial rental assistance to homeless families with children.

(23) "Voucher system" means a method of purchasing emergency shelter assistance by the night using a notification coupon.

AMENDATORY SECTION (Amending Order 87-12, filed 9/18/87)

WAC 365-120-040 Contractor funding allocation and distribution. ((Each county of the state is allocated a portion of the total contractor appropriation by the legislature according to the following formula:

(1) Five thousand dollars minimum allocation to every county to offset the limited resources and higher costs of providing services in rural areas;

(2) Fifty percent of the remaining funds distributed proportionally based on each county's percent of the state's population with an income of one hundred percent of poverty using federal guidelines; and

(3) Fifty percent of the remaining funds distributed proportionally based on each county's percent of the unemployed population during the last state fiscal year.

(4) Any increases in appropriations to this program by the legislature will be allocated according to each county's percent of the total state appropriation which was determined in subsections (1), (2), and (3) of this section.

The department may award the combined allocation of two or more counties to a single applicant.

The department may award a contract to one lead agency contractor in each county with the exception of Pierce County, where there may be two lead agency contractors, and King County, where there may be five lead agency contractors to administer subcontracts with one or more local agency providers of emergency shelter services.))

Funds will be distributed state-wide to successful applicants according to department formulas. The department will give priority in the awarding of allocations under the emergency shelter assistance program to applicants who serve families and children in need of shelter.

((In the event that funds are not claimed by an eligible organization in a county, or that a portion of the funds allocated to a county remain unspent, two thirds of those funds will be awarded to shelters serving the homeless mentally ill in King County and one third of the funds will be awarded to shelters serving the homeless mentally ill in Pierce County.))

The department will pay for services provided under the state emergency shelter ((assistance)) and transitional housing programs after the contractor submits a monthly report of expenditures incurred and a request for reimbursement, and any other reports or information required by department guidelines. Reports and requests for reimbursement may be submitted on a less frequent basis if approved by the department.

AMENDATORY SECTION (Amending Order 87-12, filed 9/18/87)

WAC 365-120-050 ((Applicant eligibility criteria.)) Funding application process. (((1) The applicant for fund-



ing as a participating agency must have been a provider of emergency shelter for one year prior to the beginning date of the contract year.

(2) The applicant must not require participation in a religious service as a condition of receiving emergency shelter.

(3) The applicant must not require residency in the designated service area as a requirement for a homeless person to receive services.

(4) The applicant must practice nondiscrimination in providing services and employment.

(5) The applicant must not deny shelter to a homeless person because of his or her inability to pay.

(6) The applicant for funding as a participating agency must provide short-term emergency shelter services either directly through a shelter facility, through a voucher system, or through a safe home.

(7) The applicant for lead agency contractor must be authorized by the applicant participating agencies within each county for which funds are applied.

(8) The applicant for lead agency contractor may or may not actually provide emergency shelter program services.

(9) The applicant must be a public or private nonprofit organization, or a local government entity.

(10) Group care facilities, crisis residential centers, congregate care facilities, and detoxification centers are not eligible to receive emergency shelter assistance funding.)) (1) The department will notify potential applicants that in order to be considered for state emergency shelter assistance and transitional housing, operating and rent grants, applications must be submitted to the department.

(2) Department funds may not be substituted for other existing funding sources.

(3) The department shall notify successful applicants and shall provide to each of them a contract for signature. This contract must be signed by an official with authority to bind the applicant and must be returned to the department prior to the award of any funds under this program.

AMENDATORY SECTION (Amending Order 87-12, filed 9/18/87)

**WAC 365-120-060** (~~Financial support application process.~~) **Eligibility for all applicants.** (~~((1) Potential applicants will be notified by the department that in order to be considered for state emergency shelter financial assistance, an application must be submitted to the department.~~

(2) ~~An applicant must make formal application using forms issued and procedures established by the department. Such application shall be for the period July 1—June 30. Failure of an applicant to make application in a timely manner, as specified by the department, will result in denial of the funding request.~~

(3) ~~Department funds may not be substituted for other existing funding sources.~~

(4) ~~The total amount of funds provided to a contractor under this program may not exceed the total funding received from other sources for emergency shelter services during the fiscal year.~~

(5) ~~Administrative costs under this program are limited to ten percent of the total award for providing direct services.~~

The administrative costs of a contractor that provides direct emergency shelter services and also serves as a lead agency contractor are limited to ten percent of the contractor award for providing direct services plus ten percent of the multi-agency service provider contract total. However, total administrative costs for a lead agency contractor may not exceed fifteen percent of a county's total allocation.

(6) ~~The department shall notify successful applicants and shall provide to each of them a contract for signature. This contract must be signed by an official with authority to bind the applicant and must be returned to the department prior to the award of any funds under this program.)~~ (1) The applicant must not require participation in a religious service as a condition of receiving emergency shelter.

(2) The applicant must practice nondiscrimination in providing services and employment.

#### NEW SECTION

**WAC 365-120-070 Eligibility for emergency shelter assistance.** (1) The applicant must have been a provider of emergency shelter for one year prior to the beginning date of the contract year or serve an area or population of demonstrated unmet need determined by a consortium of service providers in a county.

(2) The applicant must not require residency in the designated service area as a requirement for a homeless person to receive services.

(3) The applicant must not deny shelter to a homeless person or family because of inability to pay.

(4) The applicant must provide homelessness prevention assistance or short-term emergency shelter assistance directly through a shelter facility, a voucher system, or a safe home.

(5) The applicant for lead agency contractor must be authorized by the participating agencies within each county for which funds are applied.

(6) The applicant for lead agency contractor may or may not actually provide emergency shelter or homelessness prevention assistance.

(7) Group care facilities, crisis residential centers, congregate care facilities, and detoxification centers are not eligible to receive emergency shelter assistance funding.

#### NEW SECTION

**WAC 365-120-080 Eligibility for operating assistance for transitional housing.** (1) Projects must provide transitional housing in a structure designed for the targeted population of homeless families with children whose incomes are at or below thirty percent of the area median income.

(2) Operating subsidies shall not exceed thirty percent of the project's core operating budget for the year.

(3) Rents shall not exceed thirty percent of the income of the targeted population.

#### NEW SECTION

**WAC 365-120-090 Eligibility for rental assistance.** (1) Programs must provide rental assistance to homeless fam-



ilies with children whose incomes are at or below fifty percent of the area median.

(2) Assistance must be provided for no less than ninety-one days and no more than twenty-four months to help pay the cost of rent and utilities.

(3) Households must sign a written agreement to participate in a housing stability plan.

(4) Rent subsidies must be appropriate to individual family incomes.

(5) Local program administrators must have written program policies and procedures describing tenant selection, assistance denial or termination, housing safety standards, and a minimum tenant rent payment.

**WSR 00-05-022**  
**PERMANENT RULES**  
**SOUTH PUGET SOUND**  
**COMMUNITY COLLEGE**  
[Filed February 8, 2000, 1:18 p.m.]

Date of Adoption: January 14, 2000.

Purpose: The existing emergency procedures are duplicative of procedures established by the Department of Personnel applying to classified employees.

Citation of Existing Rules Affected by this Order: Repealing WAC 132X-20-010 through 132X-20-130.

Statutory Authority for Adoption: RCW 28B.50.140(13).

Adopted under preproposal statement of inquiry filed as WSR 99-23-104 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 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  
Kenneth J. Minnaert  
President

**WSR 00-05-023**  
**PERMANENT RULES**  
**SOUTH PUGET SOUND**  
**COMMUNITY COLLEGE**  
[Filed February 8, 2000, 1:27 p.m.]

Date of Adoption: January 13, 2000.

Purpose: Changes will bring clarity to existing rules, update recent title changes, broaden and clarify definitions, and designate authority to security officer.

Citation of Existing Rules Affected by this Order: Amending WAC 132X-10-010 through 132X-10-110, 132X-30-040, 132X-40-020, 132X-50-020 through 132X-50-280, and 132X-60-010 through 132X-60-178.

Statutory Authority for Adoption: RCW 28B.50.140(13).

Adopted under notice filed as WSR 99-23-035 on November 10, 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 8, Amended 46, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 8, Amended 46, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 7, 2000  
Kenneth J. Minnaert  
President

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-10-010 Purpose.** The purpose of this chapter shall be to ensure compliance by the South Puget Sound Community College District 24 with the provisions of chapter 42.17 RCW, Disclosure—Campaign finances—Lobbying—Records; and in particular with RCW 42.17.250 through ((42.17.320)) 42.17.340, dealing with public records.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-10-030 Description of central and field organization of South Puget Sound Community College District 24.** South Puget Sound is a community college district organized under RCW 28B.50.040. The district administrative office and its staff are located at South Puget Sound Community College, 2011 Mottman Road, S.W., Olympia, Washington ((98502)) 98512.

PERMANENT

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-10-050 Public records available.** All public records of the college, as defined in WAC 132X-10-020, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by ~~((section 31, chapter 1, Laws of 1973))~~ RCW 42.17.310, 42.17.315, 42.17.260(1) and WAC 132X-10-100.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-10-060 Public records officer.** The college's public records shall be in the charge of the public records officer designated by the president. The person so designated at the college is the vice-president for human resources. The public records officer shall be responsible for the following: The implementation of the college's rules and regulations regarding release of public records, coordinating the staff of the college in this regard, and generally ensuring compliance by the staff with the public records disclosure requirements of ~~((chapter 1, Laws of 1973))~~ RCW 42.17.250 through 42.17.340.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-10-080 Requests for public records.** In accordance with requirements of ~~((chapter 1, Laws of 1973))~~ RCW 42.17.250 through 42.17.340 that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request ~~((shall))~~ should be made in writing upon a form prescribed by the college which shall be available at its administrative office. The form shall be presented to the public records officer and/or his/her designees, at the administrative office during customary office hours. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;
- (e) If the requested matter is not identifiable by reference to the college's current index, an appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer and/or his/her designees, to assist the member of the public in appropriately identifying the public record requested.

(3) The public records officer and/or his/her designee to whom the request is presented shall, by the close of ~~((three))~~ five business days:

- (a) Make the requested document available; or
- (b) State that such a document does not exist; or
- (c) Ask for clarification of the document requested; or
- (d) Deny access because the document is exempt from public inspection under WAC 132X-10-050.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-10-100 Exemptions.** (1) The college reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 132X-10-080 is exempt under the provisions of ~~((section 31, chapter 1, Laws of 1973))~~ RCW 42.17.310, 42.17.315 and 42.17.260.

(2) In addition, pursuant to ~~((section 26, chapter 1, Laws of 1973))~~ RCW 42.17.260, the college reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 1, Laws of 1973. The public records officer and/or his/her designee will fully justify such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

(4) The release or disclosure of student educational records is governed by federal regulation (FERPA). Separate and different procedures are established by the college for student educational records.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-10-110 Review of denials of public records requests.** (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer and/or his/her designees which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer and/or his/her designee denying the request shall refer it to the president. The president or his/her designee shall ~~((immediately consider the matter and either affirm or reverse such denial or consult with the attorney general to review the denial))~~ consider the college's obligation to comply with the intent of chapter 42.17 RCW, the exemptions provided in RCW 42.17.310 or other pertinent statutes, and the statutory provisions which require the college to protect public records from damage or disorganization, prevent excessive interference with essential college functions, and prevent any unreasonable invasion of personal privacy by deleting identifying details. In any case, the request shall be

returned with a final decision, within ~~((three))~~ five business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the college has returned the petition with a decision or until the close of the ~~((third))~~ fifth business day following denial of inspection, whichever occurs first.

(4) Whenever the college concludes that a public record is exempt from disclosure and denies inspection and copying, the requestor may request a review of the matter by the office of the attorney general. A written request for review by the attorney general's office, along with a copy of the request and the college's written denial should be sent directly to the office of attorney general in Olympia, Washington. The office of the attorney general will conduct a prompt and independent review of the request and the college's denial and provide a written opinion as to whether the record requested is exempt from disclosure. This review is not binding upon the college or the requestor.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-30-040 Scheduling.** The administrative regulations and procedures, schedule of fees, and application forms for use may be obtained at the office of the ~~((dean of))~~ vice-president for administrative services or the college facilities rental coordinator. The scheduling of facilities by groups or organizations will be through these offices.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-40-020 Responsible officer.** In compliance with WAC 197-10-820, the ~~((dean of))~~ vice-president for administrative services is designated to be the "responsible official" for carrying out this policy.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-50-020 Applicable parking and traffic regulations.** (1) All regulations in this chapter and all motor vehicle and other traffic laws of the state of Washington shall apply on the campus.

(2) The traffic code of the city of Olympia shall apply upon all lands located within the city of Olympia. The traffic codes of the city of Tumwater shall apply upon all lands located within the city of Tumwater.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-50-030 Definitions.** As used in this chapter, the following words and phrases shall mean:

~~((1))~~ "Board": The board of trustees of South Puget Sound Community College, District 24.

(2) "Campus": All lands and buildings devoted to, operated by, or maintained by South Puget Sound Community College, District 24.

(3) "Campus security officer": Employee of the college who is responsible to the dean of administrative services for campus traffic control, parking, security, and safety.

(4) "College": South Puget Sound Community College, District 24.

~~(5) "Dean of administrative services": The dean of administrative services for South Puget Sound Community College, District 24.~~

~~(6) "Safety and security supervisor": The college's safety and security supervisor.~~

~~(7) "Employee": Any individual appointed to the faculty, staff, or administration of the college.~~

~~(8) "Guests/visitors": Person or persons who come upon the campus as guests and person or persons who lawfully visit the campus.~~

~~(9) "Annual permits": Permits which are valid from the date of issue until the first day of the following fall quarter. Annual permits are sold during fall quarter.~~

~~(10) "Temporary permits": Permits which are valid for a specific period designated on the permit.~~

~~(11) "Vehicle": Automobile, truck, motor-driven cycle, scooter or any vehicle otherwise powered.~~

~~(12) "Full-time student": Any person who is enrolled on campus for ten credit hours or more at the college.~~

~~(13) "Part-time student": Any person who is enrolled on campus for nine credit hours or less at the college.~~

~~(14) "Full-time employee": An employee of the college employed twenty hours or more per week on a permanent regular basis.~~

~~(15) "Part-time employee": An employee of the college employed less than twenty hours per week.~~

~~(16) "Security office": The college's campus security office.)~~ (1) "Annual permits": Permits which are valid from the date of issue until the first day of the following fall quarter. Annual permits are sold during fall quarter.

(2) "Board": The board of trustees of South Puget Sound Community College, District 24.

(3) "Campus": All lands and buildings devoted to, operated by, or maintained by South Puget Sound Community College, District 24.

(4) "Campus security officer": An employee of the college who is responsible for campus traffic control, parking, security, and safety.

(5) "College": South Puget Sound Community College, District 24.

(6) "Employee": Any individual appointed to the faculty, staff, or administration of the college. Student employment positions or college work study positions are not considered employees of the college in these definitions.

(7) "Full-time employee": An employee of the college employed twenty hours or more per week on a permanent regular basis.

(8) "Full-time student": Any person who is enrolled at this college and is taking ten credit hours or more on the main campus.

(9) "Guests/visitors": A person or persons who come upon the campus as guests and person or persons who lawfully visit the campus.

(10) "Main campus": All lands and buildings located at 2011 Mottman Road S.W., Olympia, WA.

(11) "Part-time employee": An employee of the college employed less than twenty hours per week. Student employees or college work study employees are not classified as part-time employees under these definitions.

(12) "Part-time student": Any person who is enrolled at this college and is taking nine credit hours or less on the main campus.

(13) "Safety and security supervisor": The college's safety and security supervisor.

(14) "Security office": The college's campus security office.

(15) "Temporary permits": Permits which are valid for a specific period designated on the permit.

(16) "Vehicle": Automobile, truck, motor-driven cycle, scooter or any vehicle otherwise powered.

(17) "Vice-president for administrative services": The vice-president for administrative services for South Puget Sound Community College, District 24.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-50-040 Authorization for issuance of permits.** The safety and security supervisor, or designee, is authorized to issue parking permits to students, administrators, ~~((faculty))~~ exempt employees, faculty, staff, guests and visitors to the college, pursuant to the following regulations:

(1) A person may be issued a parking permit upon the proper registration of his/her vehicle with the college.

(2) The safety and security supervisor, or a designee, may issue temporary, permanent or special parking permits when such permits are necessary to enhance the business or operation of the college.

(3) Additional permits are available at the current fee schedule to individuals who ~~((may be registered to drive any one of several))~~ have registered other vehicles. Only one vehicle registered to an individual under one permit fee shall be permitted to park on campus at any one time.

(4) Persons who pay the current fee for parking permits and who later request a refund shall receive refunds according to the refund policy published in the college catalogues and bulletins. The person must first turn in the current quarter/annual permit to the cashier's office, before a refund will be issued.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-50-050 Parking fees for vehicle permits.** ~~((All part-time and full-time employees and students of the college shall obtain and display a currently valid parking permit on all vehicles parked or left standing unattended upon the college campus for both day and night classes, in accordance with WAC 132X-50-040.~~

All persons parking on the campus shall secure and display a currently valid parking permit within five academic days from date of registration or from the first day of employment.) All students and employees of the college wanting to park on campus shall obtain and properly display a valid parking permit as issued by the college on all vehicles parked

or left standing unattended upon the college campus for both day and night classes, in accordance with WAC 132X-50-040. A valid temporary, daily, quarterly, or annual parking permit must be visibly displayed on the vehicle by the first day of the quarter. Day permits can be purchased at the pay station.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-50-060 Parking fee exceptions.** ~~((All guests/visitors (including salespersons, maintenance or service personnel) will park in appropriate parking areas without paying a fee after obtaining a temporary permit from the security office.) All guests/visitors (including salespersons, contractors or service personnel) will park in appropriate parking areas without paying a fee after obtaining a temporary permit from the security office or they may park in metered parking (all users must pay) or purchase a daily permit at the pay station(s). These exceptions include, but are not limited to:~~

(1) Federal, state, county, city, school district and similar governmental personnel on official business in vehicles with tax exempt licenses.

(2) Vehicles owned by contractors and their employees working on campus construction may be parked within available construction sites or areas.

(3) Members of the press, television, radio and wire services, on official business.

(4) Taxis and commercial delivery vehicles for the pick up and delivery of passengers, supplies and equipment.

(5) Persons attending special college events.

~~((Guests/visitors invited to the campus for the purpose of rendering services to the college.~~

(7) ~~Persons holding emeritus or similar appointments shall park in designated areas.~~

(8) Students and faculty participating in Friday evening (after 4:30 p.m.) and/or weekend classes only. Friday evening and weekend classes are not required to obtain temporary permits.) Guests/visitors invited to the campus for the purpose of rendering services to the college. Visitors parking spaces are reserved for visitors/guests. These spaces are time restricted and vehicles with a valid permit are not permitted to park in these spaces.

(7) Students and faculty participating in Friday evening (after 4:30 p.m.) and/or weekend classes only. Friday evening and weekend classes are not required to obtain temporary permits.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-50-080 Display of permits.** The parking permit issued by the college shall be visibly ~~((affixed on the outside of the rear window of the vehicle, for which the permit is issued, on the lower left hand corner of the window as viewed from the rear of the vehicle. If the vehicle is a convertible or has no rear window, the permit shall be affixed to the driver side rear bumper or driver side windshield lower corner))~~ displayed according to the instructions on the permit

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on or before the first day of the quarter. Motorcycle permits must be affixed in a conspicuous place.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-50-110 Right to refuse permit.** The ~~((col-lege dean of))~~ vice-president for administrative services, or designee, reserves the right to refuse the issuance of a parking permit to anyone who has had a previous permit revoked, or whose driving or parking record indicates a disregard for the ~~((rights of))~~ parking regulations or the safety of others.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-50-120 Right to appeal permit revocation/refusal.** When a parking permit has been recalled pursuant to WAC 132X-50-100 or has been refused in accordance with WAC 132X-50-110 or when a fine or penalty has been levied against a violator of the rules and regulations set forth in this chapter, such action by the ~~((dean of))~~ vice-president for administrative services, or designee, may be appealed in accordance with WAC 132X-50-180.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-50-130 Delegation of authority.** The authority and powers conferred upon the ~~((at all times))~~ vice-president for administrative services by these regulations shall be subject to delegation to that individual's subordinates.

Campus security or their designees have the authority in appropriate circumstances to demand and receive identification in appropriate circumstances from any person on owned or rented college property.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-50-140 Enforcement.** (1) Parking and traffic regulations will be enforced ~~((at all times))~~ twenty-four hours a day, seven days a week, with the exception of those sections that limit enforcement (WAC 132X-50-060(7)).

(2) The ~~((dean of))~~ vice-president for administrative services, or designee shall be responsible for the enforcement of the regulations contained in this chapter.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-50-150 Violation of parking and traffic regulations.** (1) Operators of illegally operated or parked vehicles shall be warned or cited through an appropriate means that they are in violation of these regulations. All fines are payable at the cashier's office.

(2) In instances where violations are repeated ~~((, and in the judgment of the safety and security supervisor, with appropriate documented evidence, said vehicle(s) may be~~

~~impounded)) (five or more unpaid/outstanding citations); or, vehicle is parked in such a manner as to endanger the college community; or, vehicle is parked in a fire lane or other posted tow-away, said vehicle(s) may be impounded and or immobilized.~~

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-50-160 Issuance of traffic tickets or summons.** (1) Upon probable cause to believe that a violation of these regulations has occurred, the safety and security supervisor or designee(s), may issue a warning or citation ~~((setting forth the date, the approximate time, permit number, license information and nature of violation)).~~

(2) Such warning or citation may be served by attaching or affixing a copy thereof in some prominent place outside such vehicle or by personally serving the operator/owner or by mailing the citation.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-50-170 Fines and penalties.** The safety and security supervisor, or designees, is authorized to impose the following fines and penalties for violation of the regulations contained in this chapter:

(1) Fines may be levied for all violations of the regulations contained in this chapter.

(2) Vehicles parking in a manner so as to obstruct traffic, including access to and from parking spaces and areas, may be subject to a fine ~~((and)),~~ immobilized or may be impounded and taken to such place for storage as the safety and security supervisor, or designee, selects. The expenses of such impounding and storage shall be the responsibility of the registered owner or driver of the vehicle.

(3) ~~((Vehicles impounded by means of an immobilizing device shall be charged a service fee according to the current fee schedule.~~

(4) ~~The college shall not be liable for loss or damage of any kind resulting from impounding and storage of vehicles.~~

(5) ~~At the discretion of the dean of administrative services, or designee, an accumulation of citations by a staff, administrator, or faculty member may be turned over to a private collection agency for the collection of past due fines. Other appropriate collection procedures may be initiated as deemed necessary.~~

(6) ~~Vehicles involved in violations of these regulations may be impounded as provided for in these regulations.~~

(7) ~~A schedule of fines shall be set by the board of trustees. The schedule shall be published by the college in the parking and traffic regulations and on the traffic parking citation form.~~

(8) ~~In the event a person fails or refuses to pay an untested fine which has been outstanding in excess of five days, the dean of administrative services or designee, may initiate the following actions:~~

(a) ~~Student may not be able to obtain transcript of credits until all fines are paid.~~

~~(b) Student may not receive a degree/diploma until all fines are paid.~~

~~(e) Students will not be able to register for subsequent quarters until all fines are paid.~~

~~(9) The following violations will be assessed in accordance with the fees and fines schedules as established by the board of trustees:~~

~~(a) No valid permit displayed~~

~~(b) Visitor parking violations~~

~~(c) Occupying more than one parking space~~

~~(d) Occupying space/area not designated for parking~~

~~(e) Handicapped parking violation~~

~~(f) Parking in area not authorized by permit~~

~~(g) Parking in reserved staff~~

~~(h) Blocking or obstructing traffic (may be towed if creating a safety hazard)~~

~~(i) Parking adjacent to fire hydrant (may be towed if creating a safety hazard)~~

~~(j) Parking in fire lane (may be towed if creating a safety hazard)~~

~~(k) Parking in zone or area marked no parking~~

~~(l) Driving wrong way on a one-way roadway~~

~~(m) Failure to yield right of way~~

~~(n) Exceeding the posted speed limit or a condition warrant~~

~~(o) Failure to stop at sign or signal~~

~~(p) Improper lane change~~

~~(q) Reckless or negligent driving~~

~~(r) Other violations of college parking/traffic regulations and its objectives.) The college shall not be liable for loss or damage of any kind resulting from immobilizing or impounding and storage of vehicles.~~

~~(4) Vehicles involved in violations of these regulations may be impounded or immobilized with a wheel lock as provided for in these regulations.~~

~~(5) A schedule of fines shall be set by the board of trustees.~~

~~(6) In the event a person fails or refuses to pay an untested fine which has been outstanding, the vice-president for administrative services or designee, shall initiate the following actions:~~

~~(a) Students will not be able to obtain a transcript of credits until all fines are paid.~~

~~(b) Students will not receive a degree/diploma or grades until all fines are paid.~~

~~(c) Students will not be able to register for subsequent quarters until all fines are paid.~~

~~(d) Staff, administrator or faculty members with outstanding fines may be turned over to a private collection agency for the collection of past due fines. Other appropriate collection procedures, such as garnishing wages may be used.~~

~~(7) The following violations will be assessed in accordance with the fees and fine schedules as established by the board of trustees:~~

~~(a) No valid permit displayed.~~

~~(b) Metered parking violation.~~

~~(c) No parking zone/area (not designated for parking).~~

~~(d) Carpool violation.~~

~~(e) Blocking vehicles/roadway.~~

~~(f) Parked in a fire lane.~~

(g) Disabled parking violation.

(h) Visitor parking violation.

(i) Occupying more than one space.

(j) Other parking violations of the college's parking regulations and its objectives.

(k) Driving wrong way on a one-way roadway.

(l) Failure to yield right of way.

(m) Exceeding the posted speed limit or as conditions warrant.

(n) Failure to stop at sign or signal.

(o) Improper lane change.

(p) Reckless driving.

(q) Other violations of the college's traffic regulations and its objectives.

(r) Wheel lock removal fee.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

WAC 132X-50-180 ((Grievance)) Appeals proceedings—Appeal of fines and penalties. (1) The alleged violator must submit the ((grievance)) appeal in writing, giving full particulars, listing witnesses, evidence, etc.

(2) ((Grievance must be submitted to the dean of students within five days from date of citation.

(3) If grievance is not resolved to the satisfaction of the alleged violator, he/she shall have five additional days from receipt of decision by the dean of students to appeal to the parking advisory committee.)) The appeal must be submitted to the security office within five days from date of citation.

(3) If the appeal is not resolved to the satisfaction of the alleged violator, he or she shall have five additional days from receipt of the decision by the security office to appeal to the vice-president for administrative services.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

WAC 132X-50-190 Parking advisory committee. The parking advisory committee shall be structured and responsible for the following purposes:

((+)) To review and recommend necessary changes to the college parking and traffic regulations annually.

((2) To receive and hear appeals related to parking grievances. All decisions made by the parking advisory committee relative to parking/traffic appeals shall be final.

(3) Membership shall consist of:

Four student representatives (two in student senate) appointed by the president of the associated students of South Puget Sound Community College

Two faculty representatives—appointed by faculty president of the college

One classified representative—elected by simple majority of voting classified staff

Dean of administrative services—ex officio.)) Membership shall consist of:

Four student representatives appointed by the president of the associated students of South Puget Sound Community College.

Two faculty representatives - appointed by faculty president of the college.

One classified representative - elected by simple majority of voting classified staff.

Vice-president for administrative services - ex officio.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-50-210 Designation of parking.** The parking spaces available on campus may be allocated and designated by the ~~((dean of))~~ vice-president for administrative services in such a manner as will best achieve the objectives of these rules and regulations.

(1) ~~((Special))~~ Provisions ~~((shall))~~ will be made for ~~((physically))~~ disabled employees, visitors, and students ~~((or their designee))~~. ~~((Physically))~~ The college will meet or exceed the Americans with Disabilities Act requirement as to the number of disabled spaces available. Disabled individuals utilizing ~~((handicapped))~~ disabled parking spaces must display in that vehicle a valid state issued disabled parking permit or license plate. ~~((Temporarily handicapped permits will be issued by the safety and security supervisor.))~~ In addition to the disabled permit, a valid college parking permit ~~((s))~~ must be purchased and displayed on the vehicle.

(2) Visitors parking shall be limited to spaces so designated.

(3) Parking spaces may be designated for special purposes as deemed necessary.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-50-230 Regulatory signs, markings, barricades, etc.** The ~~((dean of))~~ vice-president for administrative services, or designee, is authorized to make and erect signs, barricades, and other structures and to paint marks and other directions upon the streets, entry/exits, and roadways for the regulation of traffic and parking upon the various public lands devoted to, operated by, or maintained by the college. Drivers ~~((or))~~ of vehicles shall observe and obey all the signs, barricades, structures, markings and directions given them by the campus security officer in the control and regulation of traffic and parking.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-50-240 Speed limit.** No vehicle, except for emergency vehicles, shall be operated on the campus at a speed in excess of twenty miles per hour, or such slower speed as is reasonable and prudent to the circumstances. No vehicle of any type shall at any time use the campus parking lots for testing, racing, or other unauthorized activities. Exception ~~((s))~~ may be granted by the ~~((dean of))~~ vice-president for administrative services.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-50-260 Two-wheeled motorbikes or bicycles.** (1) All two-wheeled vehicles powered by an engine shall park in areas designated for motorcycles only and will not use spaces assigned to automobiles or bicycles. All motorcycles parked on campus must purchase a parking permit.

(2) Bicycles and other nonengine powered cycles are to be parked in bicycle racks where provided. No person shall park a bicycle inside a building, by a doorway, on a path, sidewalk, walkway, or in such a manner as to block or obstruct the normal flow of pedestrian traffic. Bicycles and motorcycles may be cited, immobilized or impounded if in violation of this section.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-50-270 Report of accidents.** (1) The operator of any vehicle involved in an accident on campus resulting in injury or death of any person or claimed damage to either or both vehicles exceeding five hundred dollars shall immediately report such accident to the security office. The operator shall within twenty-four hours after such ~~((accident file a state of Washington motor vehicle report.~~

~~((2) Other minor accidents may be reported to the security office for insurance record purposes))~~ an accident file all required state of Washington vehicle collision reports.

(2) Other minor accidents may be reported to the security office.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-50-280 Disabled and inoperative vehicles—Impounding.** ~~((1) Disabled or inoperative vehicles shall not be parked on the campus for a period exceeding seventy-two hours, without authorization from the dean of administrative services, or designee.~~

~~((2) Vehicles parked over seventy-two hours without authorization may be impounded and stored at the expense of either or both the owner and operator thereof.~~

~~((3) Notice of intent to impound will be posted on the vehicle and sent by registered mail to the legal owner forty-eight hours prior to impound.))~~ (1) Disabled or inoperative vehicles shall not be parked on the campus for a period exceeding twenty-four hours, without authorization from the vice-president for administrative services, or designee.

(2) Vehicles parked more than forty-eight hours without authorization may be impounded and stored at the expense of either or both the owner and operator thereof.

(3) The security office will attempt to contact the owners and/or operator and advise that vehicle will be impounded, if not removed.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

WAC 132X-60-010 Preamble. ~~((Unless otherwise limited by this chapter, students have the same fundamental rights as all citizens. These rules shall be liberally construed to eliminate procedural impediments to discipline.))~~ South Puget Sound Community College is dedicated not only to learning and the advancement of knowledge but also the development of ethically sensitive and responsible persons. It seeks to achieve these goals through a sound educational program and policies concerning conduct that encourage independence and maturity while strengthening the spirit of mutual cooperation and responsibility shared by all members of the college community. Sharing goals held in common, the students, faculty, and staff of South Puget Sound Community College are joined in voluntary association in an educational community.

The student is, first of all, a member of the community at large, and as such, is entitled to the rights and responsibilities of any citizen of comparable age and maturity. In addition, students, as members of the college, are in the unique position of being citizens of two communities, subject to the regulations imposed by both and accountable to both. South Puget Sound Community College expects that students will respect the laws of the greater society. As an agency of the state of Washington, the college must respect and adhere to the regulations established by local, state, and federal authorities. As an educational institution, it has the added responsibility for assisting students in gaining an understanding of the law and its function, and the responsibilities imposed upon each individual in a democratic society to respect and support the legal structure which protects the individual and the society. As a functioning organization, it also has the responsibility to develop a set of regulations to assure the orderly conduct of the affairs of the college.

Admission to the college carries with it the expectation that students will conduct themselves as responsible members of the college community, that they will comply with the rules and regulations of the college, maintain high standards of integrity and honesty, respect the rights, privileges and property of other members of the college community and will not interfere with legitimate college affairs.

An atmosphere of learning and self-development is created by appropriate conditions in the college community. The rights and responsibilities in this document are critical ingredients in the free, creative, and spirited educational environment to which the students, faculty and staff at South Puget Sound Community College are committed.

#### NEW SECTION

**WAC 132X-60-015 Definitions.** As used in this *Code of Student Rights and Responsibilities* the following words and phrases shall mean:

(1) **SPSCC senate** means the representative governing body for students at South Puget Sound Community College recognized by the board of trustees.

(2) **Assembly** means any overt activity engaged in by two or more persons, the object of which is to gain publicity,

advocate a view, petition for a cause or disseminated information to any person, persons or group of persons.

(3) **Board** means the board of trustees of Community College District 24, state of Washington.

(4) **College** means South Puget Sound Community College located within Community College District 24, state of Washington.

(5) **College facilities** means and includes any or all real and personal property owned or operated by the college and shall include all buildings and appurtenances affixed thereon or attached thereto.

(6) **College personnel** refers to any person employed by Community College District 24 on a full-time or part-time basis, except those who are faculty members.

(7) **Disciplinary action** means and includes dismissal or any lesser sanction of any student by the vice-president for student services, the student hearing committee, college president, or the board of trustees for the violation of any of the provisions of the code of student rights and responsibilities for which such sanctions may be imposed.

(a) The college president or designee shall have the authority to take any disciplinary action including the authority to suspend any student of the college for a period not to exceed ten academic calendar days.

(b) The college president or designee shall have the authority to take any disciplinary action including the authority to dismiss any student of the college.

(8) **District** means Community College District 24, state of Washington.

(9) **Faculty member(s)** means any employee of South Puget Sound Community College who is employed on a full-time or part-time basis as a teacher, counselor, librarian or other position for which the training, experience and responsibilities are comparable as determined by the appointing authority, except administrative appointments.

(10) **President** means the duly appointed chief executive officer of South Puget Sound Community College, District 24, state of Washington, or in his/her absence, the designee.

(11) **Recognized student organization** means and includes any group or organization composed of students which is recognized formally by the student government of the college.

(12) **A sponsored event or activity** means any activity that is scheduled by the college and is supervised and controlled by the college's faculty members or college personnel. Such sponsorship shall continue only as long as the event is supervised and controlled by the college faculty member or college personnel. When the sponsored event or activity is of a prolonged nature, and free time periods are permitted to the students participating in the event, any activity taking place during such a free time period outside of the supervision and control of the college's faculty member or college personnel responsible for the event or activity shall be deemed to be a nonsponsored activity.

(13) **Student**, unless otherwise qualified, means and includes any person who is enrolled for classes or formally in the process of applying for admission to the college.



AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-60-020 Jurisdiction.** ~~((These rules apply to students engaged in or present at any on-campus or off-campus college-related activity. A student's off-campus conduct may be considered in determining discipline.))~~ All rules herein adopted shall apply to every student whenever said student is present upon or in any college facility and whenever said student is present at or engaged in any college sponsored activity or function which is held on or in noncollege facilities not open to attendance by the general public.

Persons aiding or abetting a student's breach of this code shall be subject to having their privilege removed as to remaining on college property or engaging in college-sponsored activities, and/or appropriate disciplinary action pursuant to HEPB rules or faculty and administrative rules and regulations of conduct. If the privilege to remain on campus is revoked, trespassers shall be subject to possible arrest and prosecution under the state criminal trespass law.

#### NEW SECTION

##### **WAC 132X-60-035 Authority to prohibit trespass.**

(1) The college president is authorized in the instance of any event that the college president deems impedes the movement of persons or vehicles or which the college president deems to disrupt or threatens to disrupt the ingress and/or egress of persons from college facilities, and the college president acting through the vice-president for student services, or such other designated person, shall have the authority and power to:

(a) Prohibit the entry of, withdraw the license or privilege of a person or persons or any group of persons to enter onto or remain upon any portion of a college facility; or

(b) Give notice against trespass to any person, persons, or group of persons against whom the license or privilege has been withdrawn or who have been prohibited from entering onto or remaining upon all or any portion of a college facility; or

(c) Order any person, persons or group of persons to leave or vacate all or any portion of a college facility.

(2) Any student who shall disobey a lawful order given by the campus president or designee pursuant to the requirements of subsection (1) of this section shall be subject to disciplinary action.

#### NEW SECTION

**WAC 132X-60-037 Freedom of access to higher education.** Students are free to pursue their educational goals; appropriate opportunities for learning in the classroom and on the campus shall be provided by the district. The college shall maintain an open-door-policy, to the end that no student will be denied admission because of the location of the student's residence, or because of the student's educational background or ability; that, insofar as is practical in the judgment of the board, curriculum offerings shall be provided to meet the educational and training needs of the community generally and the students thereof; and that all students, regardless

of their differing courses of study, will be considered, known and recognized equally as members of the student body: Provided, That the administrative officers of the college may deny admission to a prospective student or attendance to an enrolled student, if, in their judgment, the student would not be competent to profit from the curriculum offerings of the community college, or would, by the student's presence or conduct, create a disruptive atmosphere within the community college inconsistent with the purposes of the institution.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-60-040 Freedom of association and organization.** Students are free to organize and join associations to promote any legal purpose. Student organizations must be granted a charter by the associated students of South Puget Sound Community College senate before they may be officially recognized. Prior to becoming chartered, a student organization must submit to the associated students of South Puget Sound Community College senate a statement of purpose, criteria for membership, a statement of operating rules or procedure, and the names of college personnel who have agreed to serve as an advisor. All chartered student organizations must also submit to the associated students of South Puget Sound Community College senate a list of officers and keep that list updated when changes occur. In order to qualify for issuance of a charter, a student organization must be open to all students without respect to race, ~~((sex, creed, or national origin))~~ gender, religion, age, nationality, or sexual orientation. Affiliation with a noncampus organization shall not be grounds for denial of charter provided that other conditions for charter issuance have been met.

#### NEW SECTION

**WAC 132X-60-045 Freedom of expression.** Fundamental to the democratic process are the rights of free speech and peaceful assembly. Students and other members of the college community shall always be free to express their views or support causes by orderly means which do not disrupt the regular and essential operations of the college.

Concomitantly, while supporting the rights of students and other members of the college community, the college recognizes the responsibility to maintain an atmosphere on campus conducive to a sound educational endeavor.

Persons expressing their opinion may not interfere with vehicular or pedestrian traffic or interfere with or disrupt the processes of the college.

#### NEW SECTION

**WAC 132X-60-046 Student participation in college governance.** As members of the college community, students will be free, individually and collectively, to express their views on college policy, and on matters of general interest to the student body. The ASB-SPSCC constitution and the college's administrative procedures provide clear channels for student participation in the formulation and application of institutional policies regarding academic and student affairs.

Individuals affected by a policy shall have a representative voice in the formulation of that policy.

**AMENDATORY SECTION** (Amending Order 88-1, filed 10/18/88)

**WAC 132X-60-050 Student records.** In compliance with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g and its implementing regulations, 45 CFR § 99, this policy has been created to insure confidentiality of student records at the college and govern the release of personally identifiable information contained within.

(1) Education records. Education records are defined as those records, files, and documents containing information directly pertaining to a student. At South Puget Sound Community College these are:

(a) Records pertaining to admission, advisement, registration, grading and progress to a degree that are maintained by ~~((the registrar))~~ enrollment services.

(b) Testing information used for advisement purposes by the counseling center.

(c) Information concerning payment of fees as maintained by the treasurer.

(d) Financial aid information as collected by the financial aid office.

(e) Information regarding students participating in student government or athletics that is maintained by the student programs office.

(2) Access to education records. Students who are or have attended the college have the right to examine or review their personal records, as defined above, by submitting to the registrar a written request indicating education records to which access is desired.

~~((Note: Charges for reproduced copies of education records are found in the current catalog.))~~

(3) Directory information. The following information is considered "directory information" and thus may be disclosed without consent of the student, unless otherwise directed by the student, at any time, to the registrar in writing: The student's name, address, telephone number, date and place of birth, major field of study, eligibility for and participation in officially recognized activities, organizations, and sports, weight and height of members of athletic teams, dates of attendance, ~~((honor roll))~~ academic honors, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(4) Disclosure from education records. In addition to directory information the college will, at its discretion, make disclosures from education records of students with the student's prior written consent or to the following listed parties:

(a) College officials including college administrative and clerical staff, faculty, and students where officially elected or appointed to the ~~((ASSPSCC))~~ ASB-SPSCC senate or employed by the college. Access or release of records to the above is permissible only when the information is required for the advisement, counseling, recordkeeping, reporting, or other legitimate educational interest consonant with their specific duties and responsibilities.

(b) To officials of another school in which the student seeks or intends to enroll.

(c) To authorized federal, state, or local officials as required by law.

(d) In connection with financial aid for which the student has applied or received.

(e) To accrediting organizations, or organizations conducting studies for or on behalf of the institution.

(f) To appropriate parties in a health or safety emergency.

(g) To persons in compliance with a judicial order or a lawfully issued subpoena, provided that the college first makes a reasonable effort to notify the student.

(h) To parents of a dependent student, as defined in section 152 of the Internal Revenue Code of 1954, upon receipt of a written affidavit stating that the student is a dependent for income tax purposes. This, however, will not affect the other rights of the student.

In cases where consent of the student is required for release of education records, the student shall in writing, signed and dated by the student, specify: The records to be disclosed, the purpose or purposes of the disclosure, and the name of the party or parties to whom the disclosure can be made.

When personally identifiable information is released without prior consent of the student, other than directory information and information released to college officials or the student, the college official in charge of these records will record the names of the parties who have requested information from educational records and the nature of the interest in that information.

Education records released to third parties shall be accompanied by a statement indicating that the information cannot be subsequently released in a personally identifiable form to other parties without obtaining the consent of the student. The college is not precluded from permitting third party disclosures to other parties listed in (a) through (h) of this subsection.

(5) Challenge of education records. Students who believe that information contained in their education records is inaccurate, misleading or violates the privacy or other rights of the student may request in writing to the appropriate college official that the college amend their record(s). The college official(s) will make every effort to settle disputes through informal meetings and discussion with the student.

In instances where disputes regarding contents of education records cannot be resolved by the parties concerned, the college official involved shall advise the student of the right to a hearing by the academic standards committee through a written request to the ~~((director of admissions and records))~~ administrator for enrollment services. Should the academic standards committee deem that the education records in question are inaccurate or misleading, the committee can ask that the records be amended by the appropriate college official. If the education records are held to be accurate, the student shall be granted the opportunity to place within those records a personal statement commenting upon the information contained within.

Each eligible student is afforded the right to file a complaint concerning alleged failures by the college to comply

with the requirements of the act. The address of the office designated to investigate, process, and review violations and complaints which are filed is:

The Family Educational Rights and Privacy Act Office (FERPA)  
Department of Health, Education and Welfare  
330 Independence Avenue S.W.  
Washington, D.C. 20201

Copies of the Federal Register pertaining to the Family Education Rights and Privacy Act may be obtained from:

Superintendent of Documents  
U.S. Government Printing Office  
Washington, D.C. 20402

**AMENDATORY SECTION** (Amending Order 88-1, filed 10/18/88)

**WAC 132X-60-060 Student publications.** The college will establish a student publications policy relating to officially sponsored publications and create a student publications board charged with the enforcement of the policy. The publications board shall be composed of an administrator and three faculty appointed by the college president, (~~two faculty~~) and three students appointed by the associated student body president. These students shall not, while serving on the board, hold any student publications position appointed by the student publications board and shall not serve on any superior budgetary body.

The student publications policy shall protect the students' freedom to deal with any ideas and to express any opinions in the student publications without fear of their censorship. Editors and managers of student publications are protected from arbitrary suspension and removal. Only for proper and stated causes, as outlined in the statement of purpose or philosophy adopted for each student publication, should editors and managers be subject to removal and then by orderly and prescribed procedures.

~~((At the same time, the student publications policy shall charge the student editors and managers with corollary responsibilities to be governed by the canons of responsible journalism.))~~ The student editors and managers must practice responsible journalism and have freedom of expression as outlined in the "South Puget Sound Community College Student Publications Code" June 1999, Article I, A and B.

The operational responsibilities of the publication board are outlined in the "South Puget Sound Community College Student Publications Code" June 1999, Article IX:

- (1) Appointment of each publication's editor.
- (2) Reviewing budget requests of each student publication, prior to the submittal of those requests, recommending action on funding.
- (3) Review any complaints pertaining to student publications.
- (4) Resolve complaints about student editors and managers.

## NEW SECTION

**WAC 132X-60-065 Distribution and posting of materials.** Permission for posting of literature on college property shall be obtained from the following officials:

(1) The associate dean of students-programs and activities for posting on restricted posting areas in the student center, hallways, within buildings and those areas located on the campus outside of college buildings.

(2) Posting on campus will be approved on campus by student programs. Exceptions to this are instruction announcements, cancellations, class changes, grade posting, etc., registration information, or construction posting by administrative services.

Permission for the dissemination or distribution of materials in other areas of the college campus, buildings, or facilities shall be obtained from the appropriate vice-president.

No posting will be allowed on railings unless paint protection devices are used.

Only nonprofit, nonreligious organizations will be allowed to advertise on campus. An exception is career days or hiring firms on campus.

No posting of commercial, secular, or obscene materials.

No notes on trees or tacked to the gazebo at Percival Creek.

Any item posted must have the identity of the local sponsor on its face. Posting on windows with the exception of instruction and administrative notices put up with nonadhesive tape is not to be allowed.

## NEW SECTION

**WAC 132X-60-075 Commercial and promotional activities.** Commercial solicitations, advertising or promotional activities may operate only with provisional approval as granted under the guidelines below.

(1) Informal sales between employees are acceptable as long as care is taken to not interfere with college operations or employee work schedules.

(2) Vendor sales to students in classrooms as a part of a class are acceptable upon approval of the vice-president - instruction.

(3) Vendor sales to students as a part of a student activity or club function are acceptable upon approval of the vice-president - student services.

(4) Vendor sales other than the above may be approved by the vice-president - administrative services.

Remember, no college employee should ever, on his/her own behalf sell anything to a student that relates to any college activity.

**AMENDATORY SECTION** (Amending Order 88-1, filed 10/18/88)

**WAC 132X-60-080 Student complaints and grievances.** The purpose of these procedures is to establish a process where a student may express and resolve misunderstandings, complaints or grievances with any college employee in a fair and equitable manner. This procedure emphasizes an informal resolution.

A complaint is any expression of dissatisfaction with the performance of a college employee or procedure. The student((s)) who ((have)) has a complaint about an action of a college employee should use the following procedure:

(1) Initiating a nonacademic complaint:

(a) The student and the college employee should make a good faith effort to resolve the grievance on a one to one basis within fifteen instructional days from the date of the complaint. In the event of absence from campus by the employee, the student shall contact the organizational unit administrator for advice on how to proceed with the complaint. If the student feels that he/she cannot meet face-to-face with the employee he/she may directly contact the organizational unit administrator.

(b) If the student determines that a complaint cannot be resolved appropriately with the employee concerned, the student may contact the organizational unit administrator of the employee to facilitate a solution to the grievance.

(c) If a complaint filed with the appropriate organizational unit administrator has not been resolved, the student may proceed with a formal complaint.

(2) Proceeding with a formal complaint:

(a) Office to address: Complaints regarding an instructional employee or policy shall be addressed to the ((~~dean~~)) vice-president of instruction or designee. Complaints regarding an administrative services employee or policy shall be addressed to the ((~~dean~~)) vice-president of administrative services or designee. Complaints regarding student services employees or other college personnel shall be addressed to the ((~~dean~~)) vice-president of student((s)) services or designee.

(b) The ((~~dean~~)) vice-president/designee shall discuss with the student the concerns and options available to resolve the concern. If the student should elect to proceed with the formal complaint the student must outline in writing the complaint, identifying dates and persons involved as accurately as possible.

(c) The ((~~dean~~)) vice-president shall also inform the student that the student may ask the ((~~dean of~~)) vice-president for student((s)) services or another person the student chooses to act as an advocate in assisting the student in the completion of the complaint process.

(d) The student's written complaint shall be forwarded to the employee concerned who shall provide a written response within ten instructional days.

(e) If the written response does not resolve the complaint to the satisfaction of the student, the ((~~dean~~)) vice-president shall convene a conference of all the involved parties within ten instructional days to (i) attempt to resolve to the satisfaction of all parties the complaint and/or (ii) hear the issue(s) and take appropriate action(s) to resolve the complaint.

(f) Action taken by the ((~~dean~~)) vice-president, if any, may be appealed to the president, and must be done in writing within ten instructional days. The decision of the president is final.

(3) Discrimination grievances:

Students who believe they have been discriminated against as defined in Title VII and Title IX of the Higher Education Act or Section 504 of the Handicapped Assistance Act may file a grievance through the human resources office.

(4) Academic grievances:

Students with an academic grievance should first contact the instructor and attempt to resolve the issue(s). If unable to resolve the issue(s), the student should contact the appropriate division chair. If still unable to resolve the issue(s), the student should contact the vice-president for instruction. The decision of the vice-president shall be final.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-60-090 Violations.** Any student shall be subject to disciplinary action who, either as a principal actor or aider or abettor commits any of the following which are hereby prohibited:

(1) **Abusive conduct:** Physical and/or verbal abuse of any person or conduct which is intended unlawfully to threaten imminent bodily harm or to endanger the health or safety of any person on college-owned or controlled property or at college-sponsored or supervised functions.

(2) **Destroying or damaging property:** Malicious damage to or malicious misuse of college property, or the property of any person where such property is located on the college campus.

(3) **Dishonesty:** All forms of dishonesty including: Cheating; plagiarism; knowingly furnishing false information to the college; intentionally initiating or causing to be initiated any false report, warning, or threat of fire, explosion, or other emergency, on college premises or at any college-sponsored activity; forgery; alteration or use of college documents or instruments of identification with intent to defraud.

(4) **Disorderly conduct:** Materially and substantially interferes with the personal rights or privileges of others or the educational process of the college.

(5) **Drugs:** Using, possessing, furnishing, or selling any narcotic or dangerous drug as those terms are used in Washington statutes, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical ((~~doctor or dentist~~)) practitioner.

(6) **Inciting others:** Intentionally inciting others to engage in any prohibited conduct as defined herein, which incitement directly leads to such conduct. Inciting is the advocacy which prepares the group or individual addressed for immediate action and compels that individual or group to engage in the prohibited conduct.

(7) **Insubordination:** Failure to comply with lawful directions of college personnel acting in performance of their lawful duties.

(8) **Liquor:** Possessing, consuming, or furnishing of alcoholic beverages on college-owned or controlled property or at college-sponsored or supervised functions where prohibited by law.

(9) **Theft:** Theft or conversion of college property or private property.

(10) **Trespass/unauthorized presence:** Entering or remaining unlawfully, as defined by state law, or using college premises, facilities, or property, without authority.

(11) **Sexual harassment:** It is the policy of the college that employees and students must be allowed to work and

learn in an environment free from sexual harassment. Sexual harassment is expressly prohibited and will not be tolerated.

Sexual harassment is unwelcome sexual advances, requests for sexual favors, other verbal or physical conduct of sexual favors, or other verbal or physical conduct of the sexual nature of employees toward students, supervisors toward supervisees, students toward students, or students toward employees.

Complaints of sexual harassment should be made orally or in writing to the vice-president for human resources (cases involving staff) or the vice-president for student services (cases involving students). Complaints should be reported promptly (within thirty days) in order to help ensure effective investigation and resolution. Complaints will be promptly investigated in a full and fair manner. The vice-president for human resources, serving as the college's affirmative action officer, is ultimately responsible for ensuring resolution of any sexual harassment complaints.

Anyone who is found to have violated this policy is subject to the normal and applicable disciplinary procedures of the college.

(12) Weapons: Carrying, exhibiting, displaying or drawing any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, or any other weapon apparently capable of producing bodily harm, in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate another or that warrants alarm for the safety of other persons.

~~((+2))~~ (13) Computers - misuse of technology: Use of college computers and/or computer programs for any purpose other than legitimate college business.

(14) Other violations: Students may be accountable to both civil authorities and to the college for acts which constitute violations of federal, state, or local law as well as college rules and policy. The college may refer any such violation to civilian authorities for disposition.

**AMENDATORY SECTION** (Amending Order 88-1, filed 10/18/88)

**WAC 132X-60-100 Initial disciplinary proceedings.**

(1) Initiation of disciplinary action. Anyone may report, orally or in writing, violations to the ~~((dean of students))~~ vice-president for student services, or designee, who may initiate disciplinary action.

(2) Notice requirements. Any student charged with a violation shall receive written notice delivered to the student personally or by registered or certified mail to the student's last known address no later than two weeks after a reported violation. The notice shall not be ineffective if presented later due to student's absence. Such notice shall:

(a) Inform the student that a report has been filed alleging that the student violated specific provisions of college policy and the date of the violation; and

(b) Set forth those provisions allegedly violated; and

(c) Specify the exact time and date the student is required to meet with the ~~((dean of students))~~ vice-president for student services; and

(d) Specify the exact time, date, and location of the formal hearing with the student judicial board, if one is required; and

(e) Inform the student that he/she may question witnesses, that he/she may have anyone appear in his/her behalf to defend him/her, that he/she may have a maximum of three character witnesses appear in his/her behalf; and

(f) Inform the student that failure to appear at either of the appointed times at the ~~((dean of student's))~~ vice-president for student services' office or at the hearing may subject the student to suspension from the institution for a stated or indefinite period of time.

(3) Meeting with the ~~((dean of students))~~ vice-president for student services.

(a) At the meeting with the ~~((dean of students))~~ vice-president for student services the student shall be informed of the provision of the code of student rights and responsibilities that are involved, that the student may appeal any sanction imposed by the ~~((dean of students))~~ vice-president for student services and that if a hearing with the student judicial board is required the student may have that hearing open to the public.

(b) After considering the evidence in the case and interviewing the student or students involved, the ~~((dean of students))~~ vice-president for student services may take any of the following actions:

(i) Terminate the proceedings exonerating the student or students; or

(ii) Impose disciplinary sanctions as provided for in WAC 132X-60-120; or

(iii) Refer the matter to the student judicial board for appropriate action.

(c) A student accused of violating any provision of college policy shall be given immediate notification of any disciplinary action taken by the ~~((dean of students))~~ vice-president for student services.

(d) No disciplinary action taken by the ~~((dean of students))~~ vice-president for student services is final unless the student fails to exercise the right of appeal as provided for in these rules.

(4) Student judicial board.

(a) Composition. The college shall have a standing student judicial board composed of nine members, who shall be chosen and appointed to serve as a standing committee until their successors are appointed. The membership of the board shall consist of three members of the administration, excepting the ~~((dean of students))~~ vice-president for student services, appointed by the president; three faculty members appointed by the faculty organization; and three students appointed by the associated students of South Puget Sound Community College senate. Any student entitled to a hearing before the student judicial board shall choose, in writing, five members of the board to hear and decide the appeal or disciplinary case, provided, the student must choose at least one student, one faculty member and one member of the administration from the nine member board. In the event that unforeseen circumstances prevent a previously selected board member from attending the hearing, the student must choose a replacement from among the balance of the standing committee.

(b) Hearing procedures.

(i) The five members of the student judicial board will hear, de novo, all disciplinary cases appealed to the committee by the student or referred to it by the ~~((dean of students))~~ vice-president for student services.

(ii) The five members of the student judicial board shall elect from among themselves a chairperson for the purpose of presiding at the disciplinary hearing.

(iii) The student shall be given written notice of the time, date, and location of the hearing; the specific charges against him/her; and shall be accorded reasonable access to the case file, which will be retained by the ~~((dean of students))~~ vice-president for student services.

(iv) Hearings will be closed to the public except for the ~~((dean of students))~~ vice-president for student services and/or designee, immediate members of the student's family, and the student's representative. An open hearing may be held, in the discretion of the chairperson, if requested by the student. All parties, the witnesses, and the public shall be excluded during the student judicial board's deliberations.

(v) The chairperson shall exercise control over the hearing to avoid needless consumption of time and to prevent the harassment or intimidation of witnesses. Any person, including the student, who disrupts a hearing or who fails to adhere to the rulings of the chairperson or committee advisor may be excluded from the proceedings and may be subject to disciplinary action as set forth in this policy.

(vi) The student may question witnesses, bring an advocate to defend him/her, and have a maximum of three character witnesses appear on his/her behalf.

(vii) The burden of proof shall be on the ~~((dean of students))~~ vice-president for student services who must establish the guilt of the student by a preponderance of the evidence.

(viii) Formal rules of evidence and procedure shall not be applicable in disciplinary proceedings conducted pursuant to this code. The chairperson shall admit all matters into evidence which reasonable persons would accept as having probative value in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded.

(ix) The ~~((dean of students))~~ vice-president for student services may appoint a special presiding officer to the student judicial board in complex cases or in any case in which the respondent is represented by legal counsel. Special presiding officers may participate in committee deliberations but shall not vote.

(x) In order that a complete record of the proceeding, including all evidence presented, can be made, hearings may be tape-recorded or transcribed. If a recording or a transcription is not made, the decision of the student judicial board must include a summary of the testimony and shall be sufficiently detailed to permit appellate review.

(xi) After considering the evidence in the case and interviewing the student or students involved, the student judicial board shall decide by majority vote whether to:

(A) Terminate the proceedings exonerating the student(s); or

(B) Impose disciplinary sanctions as provided in WAC 132X-60-120.

(xii) Final decisions of the student judicial board, including findings of fact or reasons for the decision, shall be delivered to the student personally or by registered or certified

mail to the student's last known address and a copy filed with the office of the ~~((dean of students))~~ vice-president for student services.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-60-110 Appeals of disciplinary action.**

(1) Appeals of disciplinary action(s) shall be taken in the following order:

(a) Disciplinary action taken by or at the recommendation of the ~~((dean of students))~~ vice-president for student services or designated representative may be appealed to the student judicial board.

(b) Disciplinary decisions and action taken by the student judicial board may be appealed by the student to the president.

(2) All appeals by a student must be made in writing to the ~~((dean of students))~~ vice-president for student services within ten calendar days after the student has been notified of the action from which he/she has a right of appeal to the student judicial board or the president.

AMENDATORY SECTION (Amending Order 88-1, filed 10/18/88)

**WAC 132X-60-120 Disciplinary sanctions.** (1) Warning. Notice to a student, either verbally or in writing, that the student has been in violation of college rules or regulations or has otherwise failed to meet the college's standards of conduct. Such warnings will include the statement that continuation or repetition of the specific conduct involved or other misconduct will normally result in one of the more serious disciplinary actions described below.

(2) Reprimand. Formal action censuring a student for violation of the college rules or regulations or has otherwise failed to meet the college's standards of conduct. Reprimands shall be made in writing to the student as appropriate by the ~~((dean of students))~~ vice-president for student services or the student judicial board with copies filed in the office of the dean of students. A reprimand will include the statement that continuation or repetition of the specific conduct involved or other misconduct will normally result in one of the more serious disciplinary actions described below.

(3) Fines. The ~~((dean of students))~~ vice-president for student services and/or the student judicial board may assess monetary fines up to a maximum of one hundred dollars per violation against individual students for violation of college rules and regulations or for the failure to meet the college's standards of conduct. Failure to pay such fines within thirty days will result in suspension for an indefinite period of time as set forth in subsection (6) of this section, provided that a student may be reinstated upon payment of the fine.

(4) Restitution. An individual student may be required to make restitution for damage or loss to college or other property and for injury to persons. Failure to make restitution within thirty days will result in suspension for an indefinite period of time as set forth in subsection (6) of this section, provided that a student may be reinstated upon payment.

(5) Disciplinary probation. Formal action placing conditions upon the student's continued attendance for violations of college rules or regulations or other failure to meet the college standards of conduct. Written notice of disciplinary probation will specify the period of probation and any condition, such as limiting the student's participation in extracurricular activities or access to specific areas of the college's facilities. Copies of the notice shall be kept on file in the office of the ~~((dean of students))~~ vice-president for student services and in the student's official educational records. Disciplinary probation may be for a specified term or for an indefinite period which may extend to graduation or other termination of the student's enrollment in the college.

(6) Suspension/dismissal. Temporary, indefinite, or permanent dismissal from the college of a student for violation of college rules and regulations. The notification suspending a student will indicate, in writing, the term of the suspension and any special conditions which must be met before readmission. Copies of the notification shall be kept on file in the office of the ~~((dean of students))~~ vice-president for student services and in the student's official education record.

Refund of fees for the quarter in which disciplinary action is taken shall be in accord with the college's refund policy.

Students who are suspended from the college may be denied access to all or any part of the campus or other facility during the duration of the period of suspension.

**AMENDATORY SECTION** (Amending Order 88-1, filed 10/18/88)

**WAC 132X-60-130 Readmission after suspension.** If the student has been suspended for an indefinite period, or feels that circumstances warrant reconsideration of the temporary suspension prior to its expiration, the student may be readmitted following approval of a written petition submitted to the ~~((dean of students))~~ vice-president for student services. Such petitions must state reasons which support a reconsideration of the matter.

**AMENDATORY SECTION** (Amending Order 88-1, filed 10/18/88)

**WAC 132X-60-140 Summary suspension procedures.** (1) Initiation of summary suspension procedures. The ~~((dean of students))~~ vice-president for student services, or designee, may suspend any student of the college for not more than ten academic calendar days pending investigation, action or prosecution on charges of alleged violation or violations of college policy, if the ~~((dean of students))~~ vice-president for student services has reason to believe the student's physical or emotional safety and well-being, or the safety and well-being of other college community members, or the safety and well-being of the college property requires such suspension.

(2) Permission to enter or remain on campus. During the period of summary suspension, the suspended student shall not enter the campus of the college or any facility under the operation of the college other than to meet with the ~~((dean of students))~~ vice-president for student services or to attend the

hearing. However, the ~~((dean of students))~~ vice-president for student services may grant the student special permission to enter a campus for the express purpose of meeting with faculty, staff, or students in preparation for the hearing.

(3) Notice of summary suspension proceedings.

(a) If the ~~((dean of students))~~ vice-president for student services or designee finds it necessary to exercise the authority to summarily suspend a student, he/she shall give the student notice, orally or in writing, stating: The time, date, place, and nature of the alleged misconduct; the evidence in support of the charge(s); the corrective action or punishment which may be imposed against the student; that anything the student says to the ~~((dean))~~ vice-president may be used against the student; and that the student may either accept the disciplinary action or, within forty-eight hours or two work days following receipt of this notification, file at the office of the ~~((dean of students))~~ vice-president for student services, a written request for a hearing by the student judicial board. If the request is not filed within the prescribed time, it will be deemed as waived.

(b) Appeal and hearing. If oral notice is given, it shall be followed by written notice within forty-eight hours or two working days. The hearing shall be accomplished according to the procedures set forth in WAC 132X-60-100. Failure by the student to appear at the hearing with the student judicial board shall result in the ~~((dean of students))~~ vice-president for student services or designee suspending the student from the college.

(c) Nothing herein shall prevent faculty members from taking reasonable summary action as may be reasonably necessary to maintain order when they have reason to believe that such action is necessary for the physical safety and well-being of the student, or the safety and protection of other students or of college property or where the student's conduct materially and substantially disrupts the educational process.

Such summary action in the form of removal from the classroom shall be effective for a period not to exceed two scheduled classroom days. Any summary action may be appealed to the ~~((dean of students))~~ vice-president for student services for an informal hearing.

**AMENDATORY SECTION** (Amending Order 88-1, filed 10/18/88)

**WAC 132X-60-150 Emergency procedures.** In the event of activities which interfere with the orderly operation of the college, the ~~((dean of students))~~ vice-president for student services or the president, or their designees shall determine the course of action which appears to offer the best possibility for resolution of the problem. The emergency procedures outlined below will be followed if deemed essential:

(1) Inform those involved in such activities that they are in violation of college and/or civil regulations.

(2) Inform them that they should cease and desist. Indicate an area on campus where they are able to conduct their activities without interfering with the operation of the college, if such an area is available.

(3) If they do not respond within a reasonable time, call the civil authorities.



AMENDATORY SECTION (Amending 90-13-064, filed 6/18/90, effective 7/19/90)

**WAC 132X-60-160 Grounds for ineligibility.** Any student found to have violated chapter 69.41 RCW, which prohibits the unlawful sale, delivery or possession of prescription drugs, shall, after hearing, be disqualified from participation in any (~~school~~) college-sponsored athletic events or activities.

AMENDATORY SECTION (Amending WSR 90-13-064, filed 6/18/90, effective 7/19/90)

**WAC 132X-60-170 Initiation of ineligibility proceedings.** The (~~dean of students~~) vice-president for student services or his or her designee shall have the authority to request commencement of athletic ineligibility proceedings whenever he or she has reasonable cause to believe that the student has violated chapter 69.41 RCW or has been advised that the student has been convicted of a crime involving the violation of chapter 69.41 RCW. The notice of the alleged violations and proposed suspension and the opportunity for a hearing shall be given the student at least ten days before the hearing. A student convicted of violating chapter 69.41 RCW in a separate criminal proceeding may be given by the (~~dean of students~~) vice-president for student services or his or her designee an interim suspension pending final determination of any administrative proceeding held under these rules. Should the student desire not to go forward with the hearing, the disqualification for participation in athletic events or activities shall be imposed as set forth in the notice of hearing to the student.

AMENDATORY SECTION (Amending 90-13-064, filed 6/18/90, effective 7/19/90)

**WAC 132X-60-180 Ineligibility proceedings.** The president of the college or his or her designee shall select a presiding officer who shall be a college officer, who is not involved with the athletic program, to conduct the brief adjudicative hearing. The presiding officer shall promptly conduct the hearing and permit the affected parties to explain both the college's view of the matter and the student's view of the matter. The brief adjudicative proceeding shall be conducted in accordance with the Administrative Procedure Act, RCW 34.05.482((-)) through 34.05.494. A written decision shall be issued within ten calendar days of the conclusion of the brief adjudicative hearing.

#### NEW SECTION

**WAC 132X-60-178 Noncollege speaker policy.** The trustees, the administration, and the faculty of the college subscribe to the proposition that an important aspect of the education of college students is the opportunity to listen to speakers representing a wide variety of opinions and beliefs on important public issues. In conformity with the American tradition of free speech and free inquiry, the following policies are established governing the appearance on campus of speakers not themselves members of the college community:

(1) Any recognized ASB-SPSCC student organization with the written sanction of its advisor, may ask individuals to speak on the campus subject to normal restraints imposed by considerations of common decency and the state law.

(2) The appearance of a speaker on the campus does not involve an endorsement, either implicit or explicit, of the speaker's views by the college, its students, its faculty, its administration, or its board of trustees.

(3) The scheduling of facilities for hearing invited speakers shall be made through the office of the associate dean of students - programs and activities.

(4) The associate dean of students - programs and activities or designee will be notified at least three academic calendar days prior to the appearance of an invited speaker, at which time a form (available in the student programs office) must be completed with such particulars as name of speaker, speech or discussion topic, time of appearance(s) and sponsoring organization. The form must bear the signature of the sponsoring organization's advisor. Exceptions to the three-day ruling may be made by the associate dean of students - programs and activities with the approval of the vice-president for student services.

(5) The vice-president for student services may require views other than those of the invited speaker to be presented at the meeting, or at a subsequent meeting. The campus president may assign a faculty member to preside over any meeting where a speaker has been invited.

#### WSR 00-05-024

#### PERMANENT RULES

#### DEPARTMENT OF AGRICULTURE

[Filed February 9, 2000, 8:21 a.m.]

Date of Adoption: February 8, 2000.

Purpose: To repeal this section of rules implemented under the authority of chapter 69.24 RCW. The Washington legislature of 1975 repealed this statute.

Citation of Existing Rules Affected by this Order: Repealing chapter 16-112 WAC.

Statutory Authority for Adoption: Chapter 69.24 RCW.

Adopted under preproposal statement of inquiry filed as WSR 00-01-138 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 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.



Effective Date of Rule: Thirty-one days after filing.  
February 8, 2000  
Jim Jesernig

**WSR 00-05-025**  
**PERMANENT RULES**  
**DEPARTMENT OF AGRICULTURE**

[Filed February 9, 2000, 8:22 a.m.]

Date of Adoption: February 9, 2000.

Purpose: Rule was amended to implement legislation passed by 1999 legislature extending authority for issuance of sanitary certificates to milk processing plants. Rule was also reviewed and language modified for clarity.

Citation of Existing Rules Affected by this Order: Amending WAC 16-147-010, 16-147-020, and 16-147-030.

Statutory Authority for Adoption: RCW 15.36.525 and 69.07.085.

Adopted under notice filed as WSR 00-01-178 on December 22, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.  
February 9, 2000  
Jim Jesernig  
Director

AMENDATORY SECTION (Amending Order 5066, filed 12/27/94, effective 1/27/95)

**WAC 16-147-010** ~~((Authority and))~~ **What is the purpose((s)) of this chapter?** ~~((This chapter is promulgated under authority of RCW 69.07.020 and 69.07.085.))~~ The purpose of this ~~((rule))~~ chapter is to establish requirements for ~~((issuance of))~~ issuing sanitary certificates to food ~~((processors))~~ processing plants and to milk processing plants.

AMENDATORY SECTION (Amending Order 5066, filed 12/27/94, effective 1/27/95)

**WAC 16-147-020** **What is a sanitary certificate** ~~((defined.))~~? A sanitary certificate is a notarized statement by a responsible food safety official ~~((that certifies))~~ certifying that a food processing plant or milk processing plant has

been inspected and approved by this department and has been issued a license indicating the same.

~~((It further certifies that its products to the best of our knowledge are prepared under sanitary conditions, are not harmful and are freely sold in the United States.))~~

AMENDATORY SECTION (Amending Order 5066, filed 12/27/94, effective 1/27/95)

**WAC 16-147-030** **What are the requirements for obtaining a sanitary certificate((s))?** **The requirements for obtaining a sanitary certificate are:**

(1) All applicants ~~((for a sanitary certificate))~~ ~~((have current license))~~ be currently licensed as either a food ~~((processor))~~ processing or milk processing plant in Washington state with the department of agriculture under RCW 69.07.040 or 15.36.051.

(2) Sanitary certificate will be issued only to cover products listed on the license application or otherwise approved by the department of agriculture.

(3) Products for certification must not be under embargo or litigation by ~~((Washington))~~ the department of agriculture, the U.S. Food and Drug Administration, or other recognized public health authorities.

(4) ~~((A food processor))~~ An applicant must not be ~~((in arrears))~~ more than ninety days in arrears in paying for previous sanitary certificates issued.

(5) ~~((A food processor))~~ Any applicant that requests sanitary certificates must have been inspected by the department of agriculture within the inspection frequency guidelines established by Washington state department of agriculture and must be in substantial compliance with applicable food safety and dairy laws and rules.

(6) The applicant must provide the department with a declaration in a form acceptable to the department.

(7) Sanitary certificates will be in a form approved by the ~~((Washington state))~~ department of agriculture ~~((which))~~ that specifies the plant location where the products were ~~((produced))~~ processed and that the plant was inspected and found in substantial compliance with food safety or dairy laws and rules. No statements will be made to ~~((infer))~~ imply that ~~((any given))~~ a product was inspected and passed.

~~((7))~~ (8) Sanitary certificates will be issued ~~((as soon as possible))~~ in the order the requests are received. However advance notice of three business days is required to ensure ~~((the))~~ that sanitary certificates will be sent by the date needed.

~~((8))~~ (9) The department will deliver sanitary certificate by U.S. mail service. Requests for overnight mail or FAX will be allowed, but must be paid for by requester.

(10) Milk processing plants that request sanitary certificates for Grade A products must be in compliance with the Pasteurized Milk Ordinance (PMO), or Condensed and Dry Milk Ordinance (DMO), as applicable.

**WSR 00-05-036**  
**PERMANENT RULES**  
**OFFICE OF THE FAMILY**  
**AND CHILDREN'S OMBUDSMAN**

[Filed February 10, 2000, 11:56 a.m.]

Date of Adoption: January 25, 2000.

Purpose: To modify and clarify administrative proceedings.

Citation of Existing Rules Affected by this Order:  
Amending WAC 112-10-010 through 112-10-060.

Statutory Authority for Adoption: RCW 43.06A.030(6).

Adopted under notice filed as WSR 00-01-099 on January 5, 2000 [December 16, 1999].

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 6, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 6, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 6, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 9, 2000

Charlotte E. Clark-Mahoney  
Assistant Attorney General

**Title 112 WAC**  
**OFFICE OF THE FAMILY**  
**AND CHILDREN'S OMBUDSMAN**

**Chapter 112-10 WAC**  
**AGENCY ORGANIZATION**

WAC 112-10-010 Purpose is amended to read as follows:

[AMENDATORY SECTION (Amending WSR 97-21-066, filed 10/14/97)]

**WAC 112-10-010 Purpose.** The Office of the Family and Children's Ombudsman (~~((OFCO) was established))~~ is intended to promote public awareness and understanding of family and children's services, ~~((to))~~ identify systems issues, ~~((to))~~ and monitor and ensure compliance with administrative acts, statutes, rules, and policies pertaining to family and children's services (~~(and to those pertaining to))~~ including the placement, supervision, and treatment of children in the state's care, ~~((or in state-operated facilities))~~ or in state-licensed facilities or residences.

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

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published

above varies from its predecessor in certain respects not indicated by the use of these markings.

WAC 112-10-020 Definitions is amended to read as follows:

[AMENDATORY SECTION (Amending WSR 97-21-066, filed 10/14/97)]

**WAC 112-10-020 Definitions.** For purposes of these rules the following terms have the meanings indicated:

(1) "Administrative Act" means an act(~~(ion))~~), decision recommendation, or omission made by a: (a) government((at)) agency or ((a)) its contracting entity, or (b) state-licensed, or state - certified, agency or facility, that affects: ((a)) (i) a child who was, is, or may be, in need of state protection due to child abuse or neglect; ((b)) (ii) a family who, was or is, under state supervision or receiving state services due to allegations or findings of child abuse or neglect; or (iii) a child who was, is, or may be in need of state services under RCW 13.32A.030; or (c) ((or a child who is in state custody-)) provided that, an administrative act does not include a specific act, decision, recommendation, or omission made by: (i) a judge, commissioner, administrative law judge, hearing examiner, attorney, court - appointed special advocate, guardian ad litem, or parenting investigator in a legal or adjudicative proceeding; (ii) a law enforcement official in a criminal investigation; (iii) a member of the legislature or the member's staff; or (iv) the governor or the governor's staff.

(2) (~~("Family and children's services" are services provided by or through the Department of Social and Health Services (DSHS), or state-licensed agencies, to families who are: (a) at risk of child abuse or neglect; (b) are under state supervision due to allegations or findings of child abuse or neglect; or (c) to children who are in state custody. These services include those provided by or through the Department of Social and Health Services, Children's Administration, Juvenile Rehabilitation Administration, and Health and Rehabilitative Services Administration-))~~ "Child abuse or neglect" means child abuse, neglect, or abandonment, or parental incapacity, as defined in RCW 13.34.030(4) and RCW 26.44.020.

(3) (~~("Confidential" and "confidentiality" refer to information that OFCO deems to be protected by federal and state law from public disclosure or further dissemination-))~~ "Committee" means the Legislative Children's Oversight Committee.

(4) (~~("Department" means the Department of Social and Health Services-))~~ "Confidential" refers to information that the ombudsman determines is protected by federal or state law from public disclosure or further dissemination.

(5) (~~("Investigative records" refers to all records obtained, held, or generated by OFCO in the performance of its duties-))~~ "Department" or "DSHS" means the Department of Social and Health Services.

(6) "Family and children's services" are services provided by or through the Department or other government agencies, or state-licensed agencies, to: (a) children who are, or may be, at risk of child abuse or neglect, and their families; (b) children and families who are the subject of allegations or findings of child abuse or neglect; or (c) to children who are, or may be, in need of services under Chapter 13.32A RCW.

(7) "Investigative records" refers to all records generated by OFCO that relate to an inquiry or complaint to OFCO, or

to an OFCO investigation or intervention, or materials obtained by OFCO from complainants or witnesses.

(8) "OFCO" refers to the Office of the Family and Children's Ombudsman.

(9) "Ombudsman" refers to the director of the Office of Family and Children's Ombudsman.

(10) "Secretary" means the secretary of the Department.

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

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

WAC 112-10-030 Location is amended to read as follows:

[AMENDATORY SECTION (Amending WSR 97-21-066, filed 10/14/97)]

~~WAC 112-10-030 ((Location. OFCO is located organizationally within the Office of the Governor, reports directly to the Governor, and exercises the powers of the office and duties independently of the Secretary of the Department of Social and Health Services.))~~ **Authority.** OFCO was created and receives its authority from RCW 43.06A.

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

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

WAC 112-10-040 Authority is amended to read as follows:

[AMENDATORY SECTION (Amending WSR 97-21-066, filed 10/14/97)]

~~WAC 112-10-040 ((Authority. OFCO was created and receives its authority from RCW 43.06A.))~~ **Duties.**

OFCO shall:

(1) Provide information as appropriate on the rights and responsibilities of individuals receiving family and children's services, and on the procedures for providing these services.

(2) Investigate administrative acts alleged to be: ~~(a) contrary to law, rule, or policy~~; ~~(b) imposed without an adequate statement or reason~~; or ~~(c) based on irrelevant, immaterial, or erroneous grounds.~~

(3) Monitor the procedures of ~~((DSHS))~~ the Department in carrying out its responsibilities in delivering family and children's services ~~((:))~~ with a view toward appropriate preservation of families and ensuring children's health and safety.

(4) Review periodically the facilities and procedures of state institutions serving children and state licensed facilities or residences.

(5) Recommend changes in the procedures for addressing the needs of families and children.

(6) Submit an annual report to the Governor and the ~~((Legislative Oversight))~~ Committee analyzing the work of OFCO, including recommendations.

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

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published

above varies from its predecessor in certain respects not indicated by the use of these markings.

WAC 112-10-050 Duties is amended to read as follows:

[AMENDATORY SECTION (Amending WSR 97-21-066, filed 10/14/97)]

~~WAC 112-10-050 ((Duties. OFCO shall:~~

~~(1) Provide information as appropriate on the rights and responsibilities of individuals receiving family and children's services and on the procedures for providing these services.~~

~~(2) Investigate administrative acts alleged to be contrary to law, rule, or policy, imposed without an adequate statement of reason, or based on irrelevant, immaterial, or erroneous grounds.~~

~~(3) Monitor the procedures of DSHS in carrying out its responsibilities in delivering family and children's services.~~

~~(4) Review periodically the facilities and procedures of state institutions serving children and state licensed facilities or residences.~~

~~(5) Recommend changes in the procedures for addressing the needs of families and children.~~

~~(6) Submit an annual report to the Governor and the Legislative Oversight Committee (LOC) analyzing the work of OFCO, including recommendations.))~~ **Duty to report.**

When the ombudsman's staff has reasonable cause to believe that any person has acted in a manner warranting criminal or disciplinary proceedings, he or she shall report the matter, or cause a report to be made, to the appropriate authorities. Reasonable cause means that the ombudsman or the ombudsman's staff has direct knowledge of the action warranting criminal or disciplinary proceedings or has determined through an investigation that the allegations or information provided by another person relating to such actions are credible. The ombudsman or the ombudsman's staff shall monitor and document the response by the agency or agencies to which the report was made.

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

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

WAC 112-10-060 Implementation of duties is amended to read as follows:

[AMENDATORY SECTION (Amending WSR 97-21-066, filed 10/14/97)]

~~WAC 112-10-060 ((Implementation of duties. (1) Investigations:~~

~~(a) OFCO investigates administrative acts.~~

~~(b) OFCO investigations may be initiated based upon receipt of a complaint or on its own initiative.~~

~~(c) OFCO may decline to investigate any complaint that is not within the scope and/or priorities of OFCO's policies and resources.~~

~~(d) OFCO may conduct its investigation based upon records review, interviews, and any other investigative tools necessary to carry out its duties.~~

~~(e) Actions to be taken by OFCO after an investigation may include:~~

~~(i) Recommendations to the agency for changes in policy, procedure, or practice that should be implemented to improve service delivery and/or accountability;~~

~~(ii) Recommendations to the Legislature for legislative enactments that would improve services and/or accountability; and/or~~

~~(iii) Recommendations to the Governor for legislation, policy, and/or executive order changes that would improve services and/or accountability.~~

~~**(2) Periodic Review of Facilities.**~~

~~(a) OFCO will periodically review the policies and procedures of state institutions serving children and state-licensed or operated facilities where children reside.~~

~~(b) OFCO may review physical facilities based upon review of agency records or reports; review of agency policies and procedures; receipt of a complaint; or as patterns raising concern arise through other investigations.~~

~~**(3) Handling of DSHS Records.**~~

~~(a) As provided by applicable federal and state law, OFCO shall have access to, and permission to copy, all records held or accessible by Children's Administration that are relevant to any OFCO investigation. Access may be established pursuant to interagency protocol.~~

~~(b) Any records received from DSHS shall be deemed to be OFCO investigative records.~~

~~(c) The determination of relevance of records held or accessible by DSHS shall be made by OFCO.~~

~~**(4) Release of Confidential Records.**~~

~~(a) OFCO investigative records are confidential and exempt from disclosure under the Public Disclosure Act, RCW 42.17.~~

~~(b) Records received by OFCO shall be maintained as provided for under the law.~~

~~(c) Relevant investigative records created by OFCO shall be released to the Legislative Oversight Committee upon request, unless prohibited by law.~~

~~(d) The determination of relevance of records to be released to the LOC shall be made by OFCO. This determination may be based on criteria established pursuant to OFCO/LOC protocol.~~

~~(e) OFCO shall treat all matters under investigation and investigative records as confidential.) **Duty to Report Abuse.** When the ombudsman, ombudsman's staff, or any volunteer, has reasonable cause to believe that a child or adult dependent or developmentally disabled person has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.~~

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

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

New Section number for Implementation of Duties (formerly under § WAC 112-10-060)

**NEW SECTION**

**WAC 112-10-070 Implementation of duties.** OFCO's fulfills its duties through the following activities: (1) information and referral; (2) interventions; (3) systemic investigations; (4) administrative investigations; (5) complaint tracking and referral; and (6) an annual report.

~~((1- Investigations-))~~ **1. Information and Referral.**

(a) OFCO ((investigates administrative acts)) responds to requests for information that relates to the rights and responsibilities of a family or child who is receiving family and children's services, and the procedures for providing such services, by providing information directly to the inquiring individual.

(b) OFCO ((investigations may be initiated based upon receipt of a complaint or on its own initiative)) may respond to requests for information pertaining to legal rights, responsibilities and procedures, but may not provide legal advice.

(c) OFCO ((may decline to investigate any complaint that is not within the scope and/or priorities of OFCO's policies and resources)) responds to requests for other information by referring the inquiring individual to the appropriate agency.

~~((d) OFCO may conduct its investigation based upon records review, interviews, and any other investigative tools necessary to carry out its duties:))~~

~~((e) Actions to be taken by OFCO after an investigation may include:~~

~~(i) Recommendations to the agency for changes in policy, procedure, or practice that should be implemented to improve service delivery and/or accountability;~~

~~(ii) Recommendations to the Legislature for legislative enactments that would improve services and/or accountability; and/or~~

~~(iii) Recommendations to the Governor for legislation, policy, and/or executive order changes that would improve services and/or accountability:))~~

~~**(2- Periodic Review of Facilities))**~~ **2. Interventions.**

(a) OFCO ((will periodically review the policies and procedures of state institutions serving children and state-licensed or operated facilities where children reside.)) may act to prevent or mitigate harm to a child or parent resulting from an administrative act.

(b) OFCO ((may review physical facilities based upon review of agency records or reports; review of agency policies and procedures; receipt of a complaint; or as patterns raising concern arise through other investigations:)) interventions may be initiated when, upon investigation, the ombudsman determines that an administrative act is harming or has placed at risk of harm a particular child or parent. OFCO may not intervene until the ombudsman has made such a determination.

(c) OFCO's investigations may be initiated upon receipt of a complaint or upon its own initiative.

(d) OFCO may investigate only those administrative acts that meet the definition established in WAC 112-10-020(1); provided that OFCO may conduct an investigation to deter-

mine whether an administrative act meets the aforementioned definition.

(e) OFCO may decline a request to intervene on behalf of a particular child or parent when, upon investigation, the ombudsman determines that the complaint does not meet the criteria or priorities specified in law, rule, or OFCO policy.

(f) OFCO interventions include, but are not limited to, informal contacts with front-line workers and supervisors to express concerns, provide information, and explore other possible responses by the agency or facility. OFCO may also recommend a particular course of action to supervisors, managers, and administrators.

~~((3. Handling of DSHS Records.))~~ 3. Systemic Investigations.

(a) ~~As provided by applicable federal and state law, OFCO shall have access to, and permission to copy, all records held or accessible by Children's Administration that are relevant to any OFCO investigation. Access may be established pursuant to interagency protocol. OFCO may conduct a systemic investigation. A systemic investigation is intended to produce information that will enable OFCO to identify systemic issues and recommend appropriate changes in law, policy, procedure, or practice.~~

(b) ~~((Any records received from DSHS shall be deemed to be OFCO investigative records.)) OFCO systemic investigations may be initiated when, upon preliminary investigation, the ombudsman determines that a chronic and/or system-wide administrative practice appears to exist that adversely affects children and/or their parents. OFCO may not conduct a systemic investigation unless the ombudsman has made such a determination.~~

(c) ~~((The determination of relevance of records held or accessible by DSHS shall be made by OFCO.)) A preliminary investigation may be initiated upon receipt of a complaint requesting such an investigation or upon the ombudsman's own initiative.~~

(d) OFCO may investigate only those chronic and/or system-wide administrative acts that meet the definition in WAC 112-10-020(1).

(e) OFCO may decline a request to conduct a systemic investigation if the ombudsman determines that the request is not consistent with the criteria or priorities specified in law, rule, or OFCO policy.

(f) The findings and recommendations resulting from a systemic investigation shall be published in a report to the Governor, the Committee, and the affected agency or facility.

~~((4. Release of Confidential Records.))~~ 4. Administrative Investigations.

(a) OFCO ~~((investigative records are confidential and exempt from disclosure under the Public Disclosure Act, RCW 42-17-))~~ may conduct an administrative investigation. An administrative investigation is intended to produce information that will enable OFCO to assess compliance with law, policy, or procedure, and/or the need for new or modified laws, policies, or procedures.

(b) ~~((Records received by OFCO shall be maintained as provided for under the law.))~~ OFCO administrative investigations may be initiated when, upon preliminary investigation, the ombudsman determines that an administrative act appears

to have been harmful to a child or parent, and is: (i) a clear violation of law, policy, or procedure, or (ii) clearly unreasonable or inappropriate under the circumstances. OFCO may not conduct an administrative investigation unless the ombudsman has made such a determination.

(c) ~~((Relevant investigative records created by OFCO shall be released to the Legislative Oversight Committee upon request, unless prohibited by law.))~~ A preliminary investigation may be initiated upon receipt of a complaint requesting an investigation or upon the ombudsman's own initiative.

(d) ~~((The determination of relevance of records to be released to the LOC shall be made by OFCO. This determination may be based on criteria established pursuant to OFCO/LOC protocol.))~~ OFCO may investigate only those administrative acts that meet the definition in WAC 112-10-020(1).

(e) ~~((OFCO shall treat all matters under investigation and investigative records as confidential.))~~ OFCO may decline a request to conduct an administrative investigation if the ombudsman determines that the request is not consistent with the criteria or priorities specified in law, rule, or OFCO policy.

(f) The findings and recommendations resulting from an administrative investigation may be published in a report to the Governor, the Committee, and the affected agency or facility.

#### 5. Complaint Tracking and Referral.

(a) OFCO shall enter each complaint it receives in an automated database for the purpose of identifying and reporting complaint trends and patterns.

(b) OFCO responds to complaints that are not within its jurisdiction, priorities, or resources, by referring the complainant to the Governor's Office, the Legislative hot line, and/or the appropriate agency.

(c) With regard to complaints that are not within OFCO's jurisdiction, but that raise child health and safety concerns, OFCO may forward the concern directly to the appropriate agency for response.

(6) Annual Report. OFCO shall, at a minimum, report annually on:

(a) The number and types of complaints received by OFCO;

(b) OFCO's response to requests for interventions and investigations;

(c) The number and type of OFCO-initiated interventions and investigations, and

(d) The results of OFCO's interventions and investigations.

[Statutory Authority: RCW 43.06A.030]

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

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

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

**NEW SECTION**

**WAC 112-10-080 Release of OFCO investigative records generally.** (a) OFCO investigative records are confidential and exempt from disclosure under the Public Disclosure Act, RCW 42.17.

(b) Confidential records received by OFCO shall be maintained as provided for under the law.

(c) OFCO shall treat all matters under investigation and investigative records as confidential, except so far as disclosures may be necessary to enable the office to perform its duties and to support recommendations resulting from an investigation.

(d) For the purpose of enabling the Committee to carry out its OFCO oversight duties, OFCO shall release relevant investigative records to the Committee upon request, unless prohibited by law.

[Statutory Authority: RCW 43.06A.030]

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

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

**WSR 00-05-039****PERMANENT RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed February 10, 2000, 3:25 p.m.]

Date of Adoption: February 10, 2000.

Purpose: To repeal duplicative rules. The policies contained in these rules have been incorporated into other adopted rules, making these rules duplicative. WAC 388-86-067 and 388-87-077 have been incorporated into WAC 388-551-1510, 388-551-1515, and 388-551-1530. WAC 388-87-067 has been incorporated into WAC 388-551-1000. WAC 388-529-2940 and 388-529-2950 have been incorporated into WAC 388-529-0100.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-86-067, 388-87-067, 388-87-077, 388-529-2940, and 388-529-2950.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Adopted under preproposal statement of inquiry filed as WSR 00-01-084 on December 14, 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 5.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 5.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 5.

Effective Date of Rule: Thirty-one days after filing.

February 10, 2000

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 388-86-067	Mental health center services.
WAC 388-87-067	Payment—Hospice services.
WAC 388-87-077	Payment—Mental health center services.
WAC 388-529-2940	Scope of care—Children's health.
WAC 388-529-2950	Scope of care—Medically indigent.

**WSR 00-05-043****PERMANENT RULES****COUNTY ROAD****ADMINISTRATION BOARD**

[Filed February 11, 2000, 10:36 a.m.]

Date of Adoption: January 12, 2000.

Purpose: Amend WAC 136-167-020 and 136-167-030.

Citation of Existing Rules Affected by this Order: Amending WAC 136-167-020 and 136-167-030.

Statutory Authority for Adoption: Chapter 36.79 RCW.

Adopted under notice filed as WSR 99-24-056 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 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 1, 2000

Jay P. Weber

Executive Director

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

**WAC 136-167-020 Withdrawal of approved project before RATA reimbursement.** At any time after the submittal of a final prospectus and prior to the time the first RATA reimbursement has been sent to the county, a county may withdraw a RATA funded project. Withdrawal may occur either before or after the county road administration board has allocated RATA funds to the project. The statement of withdrawal must be in writing and signed by the chair of the board of county commissioners or the county executive, as appropriate. The withdrawal shall be effective upon receipt by the county road administration board. If RATA funds have been allocated to the project and a CRAB/county contract has been executed, the contract will be voided and ~~((, at the next regular county road administration board meeting,))~~ the RATA funds will be allocated to other projects within the region.

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

**WAC 136-167-030 Termination of approved project after RATA reimbursement.** (1) If a county terminates an uncompleted RATA funded project for which RATA reimbursement has been made and is prepared to repay the RATA for all RATA funds received, the county shall, by means of a letter signed by the chair of the board of county commissioners or the county executive as appropriate, inform the county road administration board of its termination of the project. The letter shall state the reasons for termination and commit to repaying all RATA funds received for the project. Upon acknowledgement of such termination by the county road administration board, the county shall repay the county road administration board for all RATA funds paid to the county on that project within sixty days of such acknowledgement. ~~((Upon))~~ After receipt of the RATA repayment, the county road administration board will void the CRAB/county contract and ~~((, at the next regular county road administration board meeting,))~~ allocate the RATA funds to other projects within the region.

(2) If a county terminates an uncompleted RATA funded project for which RATA reimbursement has been made and does not want to be required to repay the county road administration board for all RATA funds received, a letter of request signed by the chair of the board of county commissioners or the county executive as appropriate must be sent to the county road administration board. The request must include:

(a) An explanation of the reasons that the project will not proceed to completion;

(b) A statement of the amount of RATA funds which the county does not want to repay; and

(c) An explanation of why the county believes full repayment should not be made.

If the county road administration board grants the request, the county shall repay all RATA funds not exempted from repayment, the CRAB/county contract will be amended, and the remaining RATA funds will be allocated to other projects within the region. If the county road administration board denies the request, full repayment shall be made as provided in subsection (1) of this section.

**WSR 00-05-051**

**PERMANENT RULES**

**BENTON CLEAN**

**AIR AUTHORITY**

[Filed February 14, 2000, 12:18 p.m.]

Date of Adoption: January 20, 2000.

Purpose: Change name throughout document; remove illegal agricultural burn exemption; reduce copy fee to \$.15 to comply with state law; general housekeeping items; etc.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 99-19-156 on September 22, 1999.

Changes Other than Editing from Proposed to Adopted Version: Proposed fee schedules were not adopted in Section 10.05, 10.06, and 10.07.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 11, 2000

David A. Lauer

Control Officer

**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 00-06 issue of the Register.



**WSR 00-05-054**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 00-17—Filed February 14, 2000, 2:40 p.m.]

Date of Adoption: February 4, 2000.

Purpose: Amend shellfish harvest log rules.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 220-52-075.

Statutory Authority for Adoption: RCW 75.08.080.

Adopted under notice filed as WSR 99-22-067 on  
 November 1, 1999.

Changes Other than Editing from Proposed to Adopted  
 Version: Puget Sound shrimp log book location requirement  
 changed to "nearest tenth of a minute" (nearest second  
 deleted).

Number of Sections Adopted in Order to Comply with  
 Federal Statute: New 0, Amended 0, Repealed 0; Federal  
 Rules or Standards: New 0, Amended 0, Repealed 0; or  
 Recently Enacted State Statutes: New 0, Amended 0,  
 Repealed 0.

Number of Sections Adopted at Request of a Nongov-  
 ernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Ini-  
 tiative: 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 Mak-  
 ing: New 0, Amended 0, Repealed 0; or Other Alternative  
 Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 14, 2000

Debbie Nelson

for Kelly White, Chairman  
 Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 97-55, filed  
 3/31/97, effective 5/1/97)

**WAC 220-52-075 Shellfish harvest logs:** It is unlawful  
 for any vessel operator engaged in commercial crawfish, sea  
 cucumber, sea urchin, scallop, shrimp other than ocean pink  
 shrimp, squid, octopus, or sand shrimp fishing or operator of  
 mechanical clam digging device to fail to obtain and accu-  
 rately maintain the appropriate harvest log available from the  
 Washington department of fish and wildlife. The harvest log  
 must be kept aboard the vessel while the vessel is engaged in  
 harvest or has crawfish, sea cucumbers, sea urchins, shrimp  
 other than ocean pink shrimp, squid, octopus, scallops, clams,  
 or sand shrimp aboard. The vessel operator must submit the  
 harvest logs for inspection upon request by authorized  
 department of fish and wildlife representatives. The depart-  
 ment's copies of the completed harvest log must be submitted  
 to the department for each calendar month in which fishing  
 activity occurs. State copies must be received within ten days  
 following any calendar month in which fishing activity  
 occurred, except that commercial sea cucumber harvest logs

must be received for each month of the season provided for in  
 WAC 220-52-072 regardless of whether harvest activity  
 occurred during the month, and all shellfish harvesters must  
 submit a log that must be received by the tenth day following  
 the termination of commercial fishing activity showing that  
 shellfish harvest has terminated for the year.

(1) Vessel operators engaged in commercial harvest of  
 shrimp other than Puget Sound shrimp or sand shrimp or  
 crawfish with shellfish pot or ring net gear must record the  
 vessel Washington department of fish and wildlife boat regis-  
 tration number, number of pots or ring nets pulled, date  
 pulled, soak time, and gear location before leaving the catch  
 area where taken, and weights must be recorded upon landing  
 or sale. ~~((In addition, vessel operators engaged in commercial  
 harvest of shrimp in Puget Sound Marine Fish-Shellfish  
 Management and Catch Reporting Areas 27A, 27B, or 27C  
 (Hood Canal) must record the total number of pots they have  
 in the water and the total number of buoys attached to those  
 pots, and the department's copy of the completed harvest log  
 must be submitted weekly, postmarked no later than Friday  
 and showing harvest activity for the period Thursday of the  
 week previous to submission through Wednesday of the  
 week the harvest log is submitted.))~~

(2) Vessel operators engaged in commercial harvest of  
 shrimp other than ocean pink shrimp with beam trawl or  
 shrimp trawl gear must record the vessel identity, date, loca-  
 tion fished, trawl width, Marine Fish-Shellfish Management  
 and Catch Reporting Area, depth fished, latitude and longi-  
 tude to the nearest tenth of a minute or to the nearest second  
 at the beginning and end of each tow, tow speed, duration of  
 tow and estimated weight of shrimp of each species caught  
 for each tow before leaving the site where the catch ~~((area  
 where))~~ was taken or before commencing a new tow, which-  
ever occurs first.

It shall be unlawful to fail to permanently record this  
 information into the department-supplied harvest log before  
 leaving each catch site. Harvest logs must be maintained and  
 submitted in ascending consecutive order of harvest log serial  
 numbers. Harvest logs must be submitted for each month in  
 which fishing activity occurs and must be received by the  
 department within ten days following any month in which  
 fishing occurs. The fish receiving ticket serial number must  
 be recorded onto the harvest log at the time of sale, or before  
 leaving the last catch site of the day if the vessel operator  
 holds a wholesale dealer license and is the original receiver of  
 the catch.

(3) Vessel operators engaged in commercial harvest of  
 sea urchins or sea cucumbers must record the vessel identity,  
 date, location fished, depth fished, latitude and longitude to  
the nearest tenth of a minute or to the nearest second, and the  
 approximate number of sea urchins or sea cucumbers taken  
 before leaving the ~~((catch area))~~ site where taken and the  
 exact weight must be recorded upon landing or sale.

(4) Vessel operators engaged in commercial harvest of  
 clams with mechanical digging devices must record the ves-  
 sel identity, location, and date of harvest before the end of  
 each day's fishing and the weights by clam species must be  
 recorded upon landing or sale.

(5) Vessel operators engaged in commercial harvest of  
 scallops must record the vessel identity, date, location, and



duration of harvest and estimated weight of scallops caught for each tow or dive hour before leaving the catch area where taken.

(6) Vessel operators engaged in commercial harvest of squid, except when taken incidental to any other lawful fishery, must record before leaving the Marine Fish-Shellfish Management and Catch Reporting Area where taken, the vessel department of fish and wildlife boat registration number, gear type, catch area, starting and ending time of fishing, and numbers of other species caught and returned. Weights of squid must be recorded on landing or sale.

(7) Vessel operators engaged in commercial harvest of octopus, except when taken incidental to any other lawful fishery, must record before leaving the Marine Fish-Shellfish Management and Catch Reporting Area where taken, the vessel department of fish and wildlife boat registration number, gear type and amount, catch area and hours fished. Weights of octopus must be recorded on landing or sale.

(8) Vessel operators engaged in commercial harvest of sand shrimp, except when taken incidental to any other lawful fishery, must record the location or identification number of the harvest tract, date of harvest, number of trenches pumped, average length and width of trenches (yards), total number of sand shrimp retained (dozens), total number of sand shrimp sold (dozens), and the name of the sand shrimp buyer.

(9) Vessel operators engaged in commercial harvest of shrimp (other than sand shrimp) using shellfish pot gear in Puget Sound must record the vessel's Washington department of fish and wildlife boat registration number, number of pots pulled, soak time, gear location (including latitude and longitude to the nearest tenth of a minute), and weight(s) of catch before leaving the site where catch is taken. A separate weight for each species caught and retained must be recorded. When single pots are fished an entry is required for each pot site. When two or more pots are fished on a common ground line the catch site must be recorded at the location of the last pot on the ground line that is pulled. It shall be unlawful to fail to permanently record this information into the department-supplied harvest log before leaving each catch site. Harvest logs must be maintained and submitted in ascending consecutive order of harvest log serial numbers. Harvest logs must be submitted for each month in which fishing activity occurs and must be received by the department within ten days following any month in which fishing occurs. The fish receiving ticket serial number must be recorded onto the harvest log at the time of sale, or before leaving the last catch site of the day if the vessel operator holds a wholesale dealer license and is the original receiver of the catch. Vessel operators engaged in commercial harvest of shrimp from Puget Sound with shellfish pot gear must report their daily catch by telephone before leaving the last catch site fished each day. For harvest in Crustacean Management Regions 1A, 1B, 1C, or 2, reports must be made to the voice recorder at the La Conner district office. For harvest in Crustacean Management Regions 3, 4, or 6, reports must be made to the voice recorder at the Point Whitney shellfish laboratory. All reports must specify the total number of pounds of each shrimp species in possession, number of pots fished, the Marine Fish-Shellfish Management and Catch Reporting

Area where shrimp were harvested, and the port or name of vessel where the catch will be landed or sold. The fish receiving ticket reporting requirements of WAC 220-69-240 remain in effect.

**WSR 00-05-055  
PERMANENT RULES  
DEPARTMENT OF  
FINANCIAL INSTITUTIONS**

[Filed February 14, 2000, 3:51 p.m.]

Date of Adoption: February 9, 2000.

Purpose: The purpose of the rule is to add a new WAC to clarify and make uniform the rules relating to broker-dealers operating on the premises of financial institutions.

Statutory Authority for Adoption: RCW 21.20.100, 21.20.450.

Adopted under notice filed as WSR 00-02-068 on January 4, 2000.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 14, 2000

John L. Bley

Director

**Chapter 460-21C WAC**

**BROKER-DEALER SERVICES AT FINANCIAL  
INSTITUTIONS**

**NEW SECTION**

**WAC 460-21C-005 Application.** (1) The rules in this chapter apply exclusively to broker-dealer services conducted by broker-dealers on the premises of a financial institution where retail deposits are taken.

(2) These rules do not alter or abrogate a broker-dealer's obligations to comply with other applicable laws, rules, or regulations that may govern the operations of broker-dealers and their agents, including, but not limited to, supervisory obligations.

(3) These rules do not apply to broker-dealer services provided to nonretail customers.

NEW SECTION

**WAC 460-21C-010 Definitions.** For purposes of this chapter, the following terms have the meanings indicated:

(1) "Financial institution" means federal and state-chartered banks, savings and loan associations, savings banks, credit unions, and the service corporations of such institutions located in this state.

(2) "Networking arrangement" means a contractual or other arrangement between a broker-dealer and a financial institution pursuant to which the broker-dealer conducts broker-dealer services on the premises of such financial institution where retail deposits are taken.

(3) "Broker-dealer services" means the investment banking or securities business as defined in paragraph (p) of Article I of the By-Laws of the National Association of Securities Dealers, Inc.

NEW SECTION

**WAC 460-21C-020 Standards for broker-dealer conduct.** No broker-dealer shall conduct broker-dealer services on the premises of a financial institution where retail deposits are taken unless the broker-dealer complies initially and continuously with the following requirements:

(1) Setting. Wherever practical, broker-dealer services shall be conducted in a physical location distinct from the area in which the financial institution's retail deposits are taken. In those situations where there is insufficient space to allow separate areas, the broker-dealer has a heightened responsibility to distinguish its services from those of the financial institution. In all situations, the broker-dealer shall identify its services in a manner that clearly distinguishes those services from the financial institution's retail deposit-taking activities. The broker-dealer's name shall be clearly displayed in the area in which the broker-dealer conducts its services.

(2) Networking arrangements and program management. Networking arrangements shall be governed by a written agreement that sets forth the responsibilities of the parties and the compensation arrangements. Networking arrangements must provide that supervisory personnel of the broker-dealer and representatives of state securities authorities, where authorized by state law, will be permitted access to the financial institution's premises where the broker-dealer conducts broker-dealer services in order to inspect the books and records and other relevant information maintained by the broker-dealer with respect to its broker-dealer services. Management of the broker-dealer shall be responsible for ensuring that the networking arrangement clearly outlines the duties and responsibilities of all parties, including those of financial institution personnel.

(3) Customer disclosure and written acknowledgment.

(a) At or prior to the time that a customer's securities brokerage account is opened by a broker-dealer on the premises of a financial institution where retail deposits are taken, the broker-dealer shall:

(i) Disclose, orally and in writing, that the securities products purchased or sold in a transaction with the broker-dealer:

(A) Are not insured by the Federal Deposit Insurance Corporation ("FDIC") or the National Credit Union Administration ("NCUA"), as applicable.

(B) Are not deposits or other obligations of the financial institution and are not guaranteed by the financial institution; and

(C) Are subject to investment risks, including possible loss of the principal invested.

(ii) Make reasonable efforts to obtain from each customer during the account opening process a written acknowledgment of the disclosures required by (a)(i) of this subsection.

(b) If broker-dealer services include any written or oral representations concerning insurance coverage, other than FDIC insurance coverage, then clear and accurate written or oral explanations of the coverage must also be provided to the customers when such representations are first made.

NEW SECTION

**WAC 460-21C-030 Communications with the public.**

(1)(a) All of the broker-dealer's confirmations and account statements must indicate clearly that the broker-dealer services are provided by the broker-dealer.

(b) Advertisements and sales literature that announce the location of a financial institution where broker-dealer services are provided by the broker-dealer, or that are distributed by the broker-dealer on the premises of a financial institution, must disclose that securities products: Are not insured by the FDIC or NCUA; are not deposits or other obligations of the financial institution and are not guaranteed by the financial institution; and are subject to investment risks, including possible loss of the principal invested. The shorter, logo format described in subsection (2)(a) of this section may be used to provide these disclosures.

(c) Recommendations by a broker-dealer concerning nondeposit investment products with a name similar to that of a financial institution must only occur pursuant to policies and procedures reasonably designed to minimize risk of customer confusion.

(2)(a) The following shorter, logo format disclosures may be used by a broker-dealer in advertisements and sales literature, including material published, or designed for use, in radio or television broadcasts, automated teller machine ("ATM") screens, billboards, signs, posters and brochures, to comply with the requirements of subsection (1)(b) of this section, provided that such disclosures are displayed in a conspicuous manner:

(i) Not FDIC insured;

(ii) Not NCUA insured;

(iii) No bank guarantee;

(iv) May lose value.

(b) As long as the omission of the disclosures required by subsection (1)(b) of this section would not cause the advertisement or sales literature to be misleading in light of the context in which the material is presented, such disclosures are not required with respect to messages contained in:

(i) Radio broadcasts of thirty seconds or less;

(ii) Electronic signs, including billboard-type signs that are electronic, time, and temperature signs and ticker tape

signs, but excluding messages contained in such media as television, on-line computer services, or ATMs; and

(iii) Signs, such as banners and posters, when used only as location indicators.

#### NEW SECTION

**WAC 460-21C-040 Notification of termination.** The broker-dealer must promptly notify the financial institution if any agent of the broker-dealer who is employed by the financial institution is terminated for cause by the broker-dealer.

### **WSR 00-05-064**

#### **PERMANENT RULES**

### **EMPLOYMENT SECURITY DEPARTMENT**

[Filed February 15, 2000, 3:02 p.m.]

Date of Adoption: December 29, 1999.

Purpose: To clarify the rule in light of Governor Locke's Executive Order 97-02 and to add two new sections to the rule which handed the disapproval and cancellation rights of the department for voluntary election coverage of unemployment insurance in order to preserve the integrity of the UI trust fund and numbered WAC 192-300-170.

Citation of Existing Rules Affected by this Order: Repealing WAC 192-12-025.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040.

Adopted under notice filed as WSR 99-23-097 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 2, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 4.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 4, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 31, 2000

Carver Gayton  
Commissioner

#### NEW SECTION

**WAC 192-300-170 Requirements for election of unemployment insurance coverage.** The department has to make timely and accurate employer liability determinations and unemployment insurance payments. It is under RCW 50.04.165 and RCW 50.24.160 that we establish the election

of coverage for unemployment insurance by employers where personal services are not considered employment:

(1) RCW 50.24.160 allows any business to file a request for election of unemployment insurance coverage for personal services not covered as employment:

(a) the request must be in writing to the department;

(b) the department must approve the request for election of coverage in writing; and

(c) the request must be signed by someone legally authorized to bind the business.

(2) RCW 50.04.165 allows a corporate employer to elect to cover the personal services of its corporate officers for unemployment insurance coverage:

(a) a corporate employer must submit a written request for voluntary coverage signed by a person authorized to legally bind the corporation. The department must receive this request no later than thirty days prior to the end of the quarter in which the change is to begin;

(b) "corporate officer" is defined in RCW 23A.08.470;

(c) corporate officers appointed under RCW 23B.08.400, other than those covered by Chapter 50.44, are not considered services in employment unless the corporation elects coverage of all its corporate officers under RCW 50.04.165;

(d) all services of corporate officers are considered exempt until the effective date of approval of election of coverage by the department; and

(e) corporate officers are exempt under RCW 50.04.165 only if the employer has notified them in writing that they are ineligible for unemployment insurance benefits. The exemption becomes effective with the date of the written notice. The written notice must:

(i) have the name(s) of the officer(s) who is/are being exempted;

(ii) have the effective date of the exemption;

(iii) have a signature of the officer(s) acknowledging receipt of the request;

(iv) be kept on file by the corporation; and

(v) be available for review by any department official upon request.

(3) If an agricultural corporate employer voluntarily covers its officers, the wages or salaries paid for such services will be used to determine the employer liability of the agricultural employer. Wages or salaries paid for service of corporate officers exempt under RCW 50.04.165 will not be used to determine liability of agricultural employers.

(4) All changes in elected coverage remain in effect for at least two calendar years. The business may terminate coverage only at the end of a calendar year. A written request by the employer must be sent to the department by January 15th following the end of the last calendar year of desired coverage.

(5) The department reserves the right to disapprove an election for unemployment insurance coverage due to:

(a) the applicant being non-liable for federal unemployment taxes (FUTA); or

(b) the seasonal nature of the occupation or industry.

(6) The department reserves the right to cancel unemployment insurance coverage for a voluntary election because:

(a) of nonpayment of unemployment insurance taxes, and/or failure to file an unemployment insurance tax/wage report; or

(b) of misrepresentation of facts; or

(c) coverage is not used for involuntary unemployment as outlined in RCW 50.01.010.

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

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 192-12-025 Requirements of corporations electing coverage of corporate officers.

**WSR 00-05-065**

**PERMANENT RULES**

**EMPLOYMENT SECURITY DEPARTMENT**

[Filed February 15, 2000, 3:06 p.m.]

Date of Adoption: December 29, 1999.

Purpose: To create a new rule by converting existing policy as a result of Governor Locke's Executive Order 97-02 and numbered as WAC 192-340-010 Field audit expansion.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040.

Adopted under notice filed as WSR 99-23-094 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 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 31, 2000  
Carver Gayton  
Commissioner

**Chapter 192-340-WAC  
Audits and Technical Assistance**

**NEW SECTION**

**WAC 192-340-010 Field audit expansion.** The department's audit expansion requirements are as follows:

(1) If underreported or overreported wages for employees originally reported and/or new workers are discovered in the audit year, the department may expand to subsequent year(s). Subsequent year(s) and/or quarter(s) means up to the most recently completed calendar quarters where the tax and wages are reported.

(2) When the department feels there are facts that indicate that the employer has made a conscious effort to avoid taxation, the audit period may be expanded within statutory limitations.

(3) In the post audit interview, it is the responsibility of the department to ensure that audit exceptions are discussed and future reporting requirements are understood by the entity being audited.

**WSR 00-05-066**

**PERMANENT RULES**

**EMPLOYMENT SECURITY DEPARTMENT**

[Filed February 15, 2000, 3:07 p.m.]

Date of Adoption: December 29, 1999.

Purpose: To create a new rule by converting existing policy as a result of a comprehensive review of all UI Tax Administration rules, policies, and procedures in accordance with Governor Locke's Executive Order 97-02 and numbered as WAC 192-330-100 Adjustments and refunds—Reduction of refund if wages reported in error.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040.

Adopted under notice filed as WSR 99-23-095 on November 17, 1999.

Changes Other than Editing from Proposed to Adopted Version: In the first paragraph, second sentence, the word "on" should be corrected to "or."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

PERMANENT

Effective Date of Rule: Thirty-one days after filing.  
 January 31, 2000  
 Carver Gayton  
 Commissioner

Effective Date of Rule: Thirty-one days after filing.  
 January 31, 2000  
 Carver Gayton  
 Commissioner

**Chapter 192-330-WAC**  
**Collections and Refunds**

**NEW SECTION**

**NEW SECTION**

**WAC 192-330-100 Adjustments and refunds - Reduction of refund if wages reported in error - RCW 50.24.150.** An employer may file a written request for refund of, or adjustment to, contributions, interest, or penalties within three years of the date they were paid. The commissioner may also make refunds or adjustments using his/her own initiative.

**WAC 192-300-190 Owners of entities are not covered for unemployment insurance purposes.** The owners of a business as identified in RCW 50.04.090 include business entities such as limited liability companies, limited liability partnerships, etc. There is no employer-employee relationship in the services provided to the business by the owners, as defined in RCW 50.04.100. Therefore, owners are not covered for unemployment insurance purposes.

When the wages of an employee have been reported in error and the department has paid a claimant benefits based on those wages, any request for refund of the tax will be offset by the amount of benefits paid. If there is any refund of taxes due the employer, it will be reduced by the amount of benefits paid against the claim(s) and any associated wages.

**WSR 00-05-068**

**PERMANENT RULES**

**EMPLOYMENT SECURITY DEPARTMENT**

[Filed February 15, 2000, 3:10 p.m.]

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

Date of Adoption: November 17, 1999.

Purpose: To repeal WAC 192-12-072 Predecessor-successor relationship defined and replace it with WAC 192-300-050 Predecessor-successor relationship defined and 192-320-050 Requirements of partial successors—Chapter 50.29 RCW, in accordance with Governor Locke's Executive Order 97-02.

**WSR 00-05-067**

**PERMANENT RULES**

**EMPLOYMENT SECURITY DEPARTMENT**

[Filed February 15, 2000, 3:09 p.m.]

Citation of Existing Rules Affected by this Order: Repealing WAC 192-12-072.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040.

Adopted under notice filed as WSR 99-19-132 on September 21, 1999. Note: Also filed supplemental notice to WSR 99-05-068 filed February 17, 1999, with a hearing held on March 22, 1999, at which no adverse testimony was heard against the rule.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, 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 2, Amended 5, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

Date of Adoption: December 29, 1999.

Purpose: To create a new rule by converting existing policy as a result of Governor Locke's Executive Order 97-02 and numbered as WAC 192-300-190 Owners of entities are not eligible for unemployment insurance.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040.

Adopted under notice filed as WSR 99-23-096 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 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

January 31, 2000  
 Carver Gayton  
 Commissioner

PERMANENT

NEW SECTION

**WAC 192-300-050 Predecessor-successor relationship defined.** This section applies only to those individuals and organizations that meet the definition of an employer contained in RCW 50.04.080.

(1) **Predecessor.** You are a "predecessor" if, during any calendar year, you transfer any of the following to another individual or organization:

(a) All, or a portion, of your operating assets as defined in subsection (3) below; or

(b) A separate unit or branch of your trade or business.

(2) **Successor.** You are a "successor" if, during any calendar year, you acquire substantially all of a predecessor employer's operating assets. You are a "partial successor" if, during any calendar year, you acquire:

(a) A portion of a predecessor employer's operating assets, or

(b) A separate unit or branch of a predecessor employer's trade or business.

(3) **Operating assets.** "Operating assets" include the properties you use in the normal course of business operations to generate your operating income. They may include properties that are real or personal, and tangible or intangible. Examples include land, buildings, machinery, equipment, stock of goods, merchandise, fixtures, or goodwill. Employees are not operating assets.

(4) **Transfer of assets.** Transfers from a predecessor to a successor employer may occur by sale, lease, gift, or any legal process, except those listed in subsection (5) below.

(5) **Exceptions.** A predecessor-successor relationship will not exist:

(a) For the purposes of Chapter 50.24 RCW (payment of taxes), when the property is acquired through court proceedings, including bankruptcies, to enforce a lien, security interest, judgment, or repossession under a security agreement unless the court specifies otherwise;

(b) For the purposes of Chapter 50.29 RCW (experience rating), when any four consecutive quarters, one of which includes the acquisition date, pass without reportable employment by either the predecessor, successor, or a combination of both.

NEW SECTION

**WAC 192-320-050 Requirements of partial successors—Chapter 50.29 RCW.** (1) If you are a partial successor, you must return the partial transfer of experience letter provided to you by the department within thirty days of the mailing date. Your response must indicate the percentage of operating assets transferred to you as the partial successor.

(2) If you do not return the letter within thirty days, you will keep the tax rate class that was assigned to the predecessor employer for the remainder of the rate year. However, in the following calendar year you will receive the average industry rate. You will keep this rate until you qualify for a different rate in your own right.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 192-12-072 Predecessor-successor relationship defined.

**WSR 00-05-069****PERMANENT RULES****EMPLOYMENT SECURITY DEPARTMENT**

[Filed February 15, 2000, 3:10 p.m.]

Date of Adoption: November 23, 1999.

Purpose: To repeal WAC 192-12-405 and replace it with a revised rule WAC 192-320-070 Conditions for relief of benefit charges due to a voluntary quit.

Citation of Existing Rules Affected by this Order: Repealing WAC 192-12-405.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040.

Adopted under notice filed as WSR 99-19-071 on September 16, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 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.

December 15, 1999

Carver Gayton  
Commissioner

NEW SECTION

**WAC 192-320-070 Conditions for relief of benefit charges due to a voluntary quit.** A contribution-paying non-local government base year employer, who has not been granted relief of charges under RCW 50.20.020(2) may request relief of charges for a voluntary quit not attributable to the employer under RCW 50.29.020(3) and WAC 192-320-065.

(1) **Reasons for a voluntary quit not attributable to the employer may include, but are not limited to:**

(a) The claimant's illness or disability or the illness, disability or death of a member(s) of the claimant's immediate family;

- (b) The claimant's domestic responsibilities;
- (c) Accepting a job with another employer;
- (d) Relocating for a spouse's employment;
- (e) Starting or resuming school or training;
- (f) Being in jail;
- (g) The distance to the job site when the job was accepted and the distance at the time of the quit remained the same, or the job location may have changed; but the distance traveled or difficulty of travel was not increased;
- (h) Being dissatisfied with wages, hours or other working conditions generally known when the job was accepted; and the working conditions are determined suitable for the occupation in the claimant's labor market.

(2) **Reasons for a voluntary quit considered attributable to employer** are those work-related factors of such a compelling nature as to cause a reasonably prudent person to leave employment. The work factors must have been reported to the employer if the employer has reasons not to be aware of the conditions, and the employer failed to improve the factors within a reasonable period of time. Such work-related factors may include, but are not limited to:

- (a) Change in work location which causes an increase in distance and/or difficulty of travel, but only if it is clearly greater than is customary for workers in the individual's classification and labor market;
- (b) Deterioration of work site safety provided the employee has reported such safety deterioration to the employer; and the employer has failed to correct the hazards within a reasonable period of time;
- (c) Employee skills no longer required for the job;
- (d) Unreasonable hardship on the health or morals of the employee;
- (e) Reductions in hours;
- (f) Reduction in pay;
- (g) Notification of impending layoff; and
- (h) Such other work-related factors as the commissioner may deem pertinent.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 192-12-405                      Conditions for relief of benefit charges.

**WSR 00-05-102  
PERMANENT RULES  
GAMBLING COMMISSION**

[Order 380—Filed February 16, 2000, 10:21 a.m., effective July 1, 2000]

Date of Adoption: February 11, 2000.

Purpose: Businesses that assemble components for gambling equipment under a contract with a licensed manufacturer and businesses that provide training of gambling activities now fall under the licensing requirements of a gambling service supplier. Furthermore, instructors at dealer schools

will now be required to be licensed as a gambling service supplier representative.

Citation of Existing Rules Affected by this Order: Amending WAC 230-02-205, 230-02-206, and 230-04-119.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 00-01-146A on December 9, 1999, with a publication of January 5, 2000.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 3, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: July 1, 2000.

February 15, 2000  
Susan Arland  
Rules Coordinator

**AMENDATORY SECTION** (Amending Order 361, filed 9/23/98, effective 1/1/99)

**WAC 230-02-205 Gambling service supplier defined.**  
A "gambling service((s)) supplier" is any person who provides gambling related services for compensation, whether ~~((direct or indirect, to any licensed operator and who is not an employee of the operator receiving such services))~~ directly or indirectly.

(1) Gambling related services include at least the following:

- (a) Providing consulting or advisory services regarding gambling activities;
- (b) Providing gambling related management services;
- (c) Providing financing for purchases or leases of gambling equipment or for providing infrastructure that supports gambling operations for more than one licensee. For purposes of this section, financing by any bank, mutual savings bank, or credit union regulated by the department of financial institutions or any federally regulated commercial lending institution shall not be deemed as providing gambling related services; ~~((or))~~

(d) Providing any other service or activity where influence may be exerted over any gambling activity licensed by the commission;

(e) Providing assembly of components for gambling equipment under a contract with a licensed manufacturer; or

(f) Training individuals to conduct authorized gambling activities.

(2) The term "gambling services supplier" does not include the following:

PERMANENT

(a) Universities and colleges that are regulated by the Washington state board of community and technical colleges and the higher education coordinating board which train individuals to conduct authorized gambling activities;

(b) Licensed manufacturers or distributors who service and repair pull-tab dispensing devices, bingo equipment or any other authorized gambling equipment;

~~((b))~~ (c) Attorneys, accountants, and governmental affairs consultants whose primary business is providing professional services that are unrelated to the management or operation of gambling activities; and

~~((e))~~ (d) Persons that only provide nonmanagement related recordkeeping services for punch board and pull-tab operators, when the combined total gross billings from such services does not exceed twenty thousand dollars during any calendar year.

**AMENDATORY SECTION** (Amending WSR 97-24-031, filed 11/25/97, effective 1/1/98)

**WAC 230-02-206 Gambling service((s)) supplier representative defined.** A "gambling service((s)) supplier representative" is any natural person who:

(1) Represents a licensed gambling service((s)) supplier and who is directly involved in providing a service listed in WAC 230-02-205(1);

(2) Instructs card room activities to students enrolled in a university or college regulated by the Washington state board of community and technical colleges, and the higher education coordinating board when such instruction covers dealer procedures as opposed to general casino management.

**AMENDATORY SECTION** (Amending Order 362, filed 9/23/98, effective 1/1/99)

**WAC 230-04-119 Licensing of gambling service suppliers.** Prior to providing any type of gambling related service ~~((to any licensed operator)),~~ a gambling service supplier shall first obtain a license or certification from the commission. The following requirements and restrictions apply to certification and licensing of gambling service suppliers:

**License required.**

(1) For purposes of this title, a license is required to provide any service related to licensed gambling activities as defined in WAC 230-02-205.

**License not required.**

(2) A sole owner, partner, major officer and/or owner of a substantial interest in a corporation licensed as a gambling service supplier shall not be required to be additionally licensed as a gambling service supplier representative to perform duties in connection with the gambling service supplier's business. Except as provided in this section, a gambling service supplier shall not employ any unlicensed person to perform duties for which a license is required and shall take measures necessary to prevent an unlicensed person from doing so.

**Application for license or certification.**

~~((2))~~ (3) The applicant shall complete the application form supplied by the commission. The applicant shall provide, on the application form or attached thereto, a full description of all services provided or planned to be provided to each ~~((licensee))~~ licensee of the commission. Such description shall be in writing and include details necessary for commission staff to determine the scope of services provided to each licensee and the responsibilities of each party under the agreement.

**Changes to the application.**

~~((3))~~ (4) The applicant shall notify the commission within thirty days of any change in the information submitted on or with the application form.

~~((4))~~ ~~The applicant shall comply with all applicable laws of the United States and the state of Washington and all applicable rules of the commission.))~~

**Limit of responsibility.**

(5) In no circumstance may a gambling service supplier assume ultimate responsibility for ~~((an operator's gambling))~~ a licensee's activity.

**License fees.**

(6) License fees for gambling service suppliers shall be ~~((five hundred seventy-five dollars, plus one hundred twenty-five dollars per contract for gambling related services.~~

~~In addition to the annual fee, the commission will assess all applicants the actual costs incurred in conducting the investigation and inspection necessary for initial certification))~~ as set forth in WAC 230-04-203.

**Gambling service supplier holding an interest in a pull-tab manufacturer or distributor business.**

(7) A licensed gambling service supplier or substantial interest holder thereof that provides services to punch board and pull-tab operators shall not hold a substantial interest in a licensed manufacturer or distributor of punch boards and pull-tabs: Provided, That for purposes of this section only, the director may determine that the spouse of an individual that is a substantial interest holder in a licensed gambling service supplier business will not be considered a substantial interest holder in the gambling service supplier business. In making such a determination, the director will assess the potential for involvement and/or influence in the gambling service supplier business and the manufacturer or distributor business and whether any potential influence is material. The director may impose additional requirements on either the gambling service supplier business and/or the manufacturer or distributor business. Such limitations may include, but are not limited to, prohibiting sales or providing services to an operator by the affected gambling service supplier business, or manufacturer or distributor business. At least the following documents may be considered by the director in a determination of potential influence:

- (a) Community or marital property agreements;
- (b) Separate property agreements;



- (c) Prenuptial agreements; and  
(d) Wills and codicils.

**WSR 00-05-105**  
**PERMANENT RULES**  
**DEPARTMENT OF AGRICULTURE**

[Filed February 16, 2000, 10:43 a.m.]

Date of Adoption: February 16, 2000.

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. This revision of an existing rule converts it to clear and readable form and incorporates updated terminology.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-483-060; and amending WAC 16-483-001, 16-483-005, 16-483-010, 16-483-020, 16-483-030, 16-483-040, and 16-483-050.

Statutory Authority for Adoption: Chapter 17.24 RCW.

Adopted under notice filed as WSR 00-04-066 on January 31, 2000.

Changes Other than Editing from Proposed to Adopted Version: As per testimony, proposed removal of stem pitting from the existing rule was not adopted. Only proposal to convert to clear and readable form was adopted.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 7, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 7, 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 7, Repealed 1.

Effective Date of Rule: Thirty-one days after filing.

February 16, 2000

Jim Jesernig

Director

**AMENDATORY SECTION** (Amending WSR 91-21-042, filed 10/11/91, effective 11/11/91)

**WAC 16-483-001 Grape virus quarantine—Establishing quarantine.** The production of wine grapes, ~~((table))~~ juice grapes, and grape ~~((plant nursery))~~ planting stock are important industries in the state of Washington. The director has determined that these industries are threatened by the introduction and establishment of the virus diseases known as leafroll, fanleaf, corky bark, and stem pitting that are not ~~((established))~~ known to occur in the state of Washington. The presence of these virus diseases cannot be determined by

the most rigorous visual examination of dormant grape ~~((plants or propagative parts of grape plants. Introductions))~~ planting stock. The introduction and establishment of these virus diseases would entail great economic loss to the ~~((horticultural))~~ grape industries of the state. To ~~((prevent))~~ minimize this ~~((harm))~~ risk, the director, under the authority provided in chapter 17.24 RCW, has established a quarantine setting forth rules for the importation of grape planting stock into the state of Washington.

**AMENDATORY SECTION** (Amending WSR 91-21-042, filed 10/11/91, effective 11/11/91)

**WAC 16-483-005 Grape virus quarantine—Definitions.** ~~((1))~~ "Department" means the Washington state department of agriculture.

~~((2))~~ "Director" means the director of the Washington state department of agriculture or the director's authorized representative.

~~((3))~~ "Grape ~~((plants and propagative parts))~~ planting stock" means live plants, hardwood cuttings, softwood cuttings, rootstocks, and any other parts of the grape plant (vitis species), except fruit, capable of propagation.

~~((4))~~ "Official certificate" means a document issued by an official ~~((inspection agency))~~ plant protection organization including but not limited to phytosanitary certificates, inspection certificates, or other letters, tags, stamps, or similar documents certifying plant quality or condition.

**AMENDATORY SECTION** (Amending WSR 91-21-042, filed 10/11/91, effective 11/11/91)

**WAC 16-483-010 Grape virus quarantine—Quarantine area.** Areas under quarantine ~~((for grape virus))~~ include all states and territories of the United States outside of the territorial borders of the state of Washington.

**AMENDATORY SECTION** (Amending WSR 91-21-042, filed 10/11/91, effective 11/11/91)

**WAC 16-483-020 Grape virus quarantine—Regulated articles.** All ~~((plants and plant parts capable of propagation (except fruit) of grapes are))~~ grape planting stock is regulated under the terms of ~~((the grape virus))~~ this quarantine.

**AMENDATORY SECTION** (Amending WSR 91-21-042, filed 10/11/91, effective 11/11/91)

**WAC 16-483-030 Grape virus quarantine—Regulations.** Grape ~~((plants and propagative parts))~~ planting stock will be admitted into the state of Washington provided the following provisions are complied with:

(1) The grape ~~((plants or propagative parts have))~~ planting stock has been certified in accordance with the regulations of an official ~~((state agency, which))~~ grapevine certification program that includes inspection and testing by ~~((indexing on suitable indicator hosts))~~ methods approved by the director for fanleaf, leafroll, stem pitting, and corky bark virus diseases. ~~((All shipments of such grape cuttings shall be~~

~~accompanied by a certificate issued by an agency of the state of origin certifying that the grape plants or cuttings were produced under official certification regulations and meet official certification standards as to freedom from fanleaf, leafroll, stem pitting, and corky bark virus diseases.)~~ An official certificate issued by the plant protection organization of the state of origin certifying that the grapevines meet the requirements of this chapter must accompany the grape planting stock into the state.

(2) All shipments of grape ~~((nursery))~~ planting stock ~~((shall))~~ must be plainly marked with the contents on the outside of the package or container.

(3) Persons shipping or transporting ~~((regulated articles, identified in WAC 16-483-020,))~~ grape planting stock into this state from areas under quarantine shall notify the ~~((department's plant protection branch by United States))~~ department by mail or ~~((telefax))~~ telefacsimile prior to shipment ~~((of))~~. The notification must include the nature ~~((and))~~ of the grape planting stock (such as live plants, hardwood cuttings, softwood cuttings, rootstocks, or other similar categories), the quantity ~~((of))~~ in each shipment, the expected date of arrival ~~((at destination))~~, the name of the intended receiver and the destination. The person to whom the articles are shipped shall hold the ~~((same))~~ articles until ~~((they are))~~ the grape planting stock is inspected and/or released by the department.

AMENDATORY SECTION (Amending WSR 91-21-042, filed 10/11/91, effective 11/11/91)

**WAC 16-483-040 Grape virus quarantine—Disposition of material shipped in violation.** ~~((All grape plants or parts thereof arriving in the state of Washington in violation of the provisions of the grape virus quarantine, shall be refused admittance into the state of Washington, or shall be immediately sent out of the state or destroyed at the option and expense of the owner or owners, or their responsible agents.))~~ The department will refuse admittance into the state grape planting stock not meeting the requirements of this chapter. For grape planting stock shipped into the state in violation of this chapter, the department will give the owner or the owner's responsible agent the option of destroying the material or immediately sending it out of the state.

AMENDATORY SECTION (Amending WSR 91-21-042, filed 10/11/91, effective 11/11/91)

**WAC 16-483-050 Grape virus quarantine—Exemption.** The restrictions on the movement of regulated articles set forth in this chapter ~~((shall))~~ do not apply to grape ~~((plants or propagative parts))~~ planting stock imported for experimental or trial purposes by the United States Department of Agriculture ~~((and the state experiment stations in the state of Washington))~~ or Washington State University: Provided, ~~((That a permit to import is issued by the director of agriculture))~~ a permit issued by the director is obtained.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-483-060

Grape virus quarantine—  
Violation and penalty.

PERMANENT

**WSR 00-04-026**  
**EMERGENCY RULES**  
**DEPARTMENT OF REVENUE**

[Filed January 24, 2000, 3:33 p.m.]

Effective Date of Rule: Immediately.

January 24, 2000  
 Claire Hesselholt  
 Rules Manager  
 Legislation and Policy Division

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.

**AMENDATORY SECTION** (Amending WSR 86-09-058, filed 4/17/86, effective 5/18/96)

**WAC 458-20-135 Extracting natural products.** ((The word "'extractor' means)) **(1) Introduction.** This rule explains the application of the business and occupation (B&O), retail sales, and use taxes to persons extracting natural products. Many persons extracting natural products also use the same extracted products in a manufacturing process. This rule provides guidance for determining when an extracting activity ends and the manufacturing activity begins. 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, harvesters of timber may be subject to the forest excise tax levied by chapter 84.33 RCW (Timber and Forest Lands). Chapter 458-40 WAC (Taxation of Forest Land and Timber) provides important tax-reporting information regarding the forest tax program.

**(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((-or)). The term includes a person who similarly fells, cuts, or takes timber, Christmas trees other than plantation Christmas trees, or other natural products((-or)). It also includes any person who takes fish((-or takes, cultivates, or raises)) shellfish, or other sea or inland water foods or products.

~~((Extractor))~~ **(a) The term "extractor" does not include:**

**(i) Persons performing under contract the necessary labor or mechanical services for others ((or));**

**(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.((-RCW 82.04.100-))**

~~The following activities are illustrative of operations which are included within the extractive activity:~~

**(4)) (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.**

(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) Logging operations, including the ((bucking, yarding, and loading of timber or logs after felling, as well as the)) actual cutting or severance of trees are extracting activities. ((H)) Extracting includes other activities necessary and incidental to logging, such as logging road construction or maintenance, slash burning, slashing, scarification, stream cleaning or rebuilding, 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)). As a general rule, the extracting activity ends once the tree is felled, cut, or taken. The subsequent activity of cutting, delimiting, and measuring with respect to the felled, cut, or taken trees is a manufacturing activity. (See WAC 458-20-136 on manufacturing.)

((2)) (ii) Mining and quarrying operations are extracting activities, including the ((activities incidental to the preparation of the products for market, such as screening, sorting, washing, crushing, etc.)) screening, sorting, piling, and washing of rock, sand, stone, or gravel if the extractor does not directly or by contracting with others crush or blend the materials at the site where the materials were taken or produced.

The crushing and/or blending of rock, sand, stone, or gravel are not extracting activities. These are manufacturing activities. (See WAC 458-20-136 on manufacturing.) Likewise, any screening, sorting, piling, or washing of the material, when the activity takes place in conjunction with crushing or blending, 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.

((3)) (iii) 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) is an extracting activity. Extracting 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)). The filleting or steaking of fish are manufacturing activities. (See WAC 458-20-136 on manufacturing.)

#### **((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 oth-

ers. 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.))~~ **(3) Tax-reporting responsibilities of persons extracting natural products.** Persons who extract products in this state are subject to the extracting B&O tax upon the value of the products, unless otherwise provided by law. 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) system. See also WAC 458-20-19301 (Multiple activities tax credits) for a more detailed explanation of the MATC reporting requirements.

(a) 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.)

(b) 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)) subject to the extracting for hire B&O tax upon their gross income from ((such)) the labor or services. ((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.))) Persons performing the necessary labor or mechanical services for manufacturers are subject to the processing for hire B&O tax. (See also WAC 458-20-136.)

**((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))**

(c) 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.

(d) 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.

(e) Persons constructing or maintaining 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)) considered consumers of all materials incorporated into the logging roads. Their purchase and/or use of these materials is subject to either the retail sales or use tax.

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

**Reviser's note:** 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.

**AMENDATORY SECTION** (Amending WSR 88-21-014, filed 10/7/88, effective 11/7/88)

**WAC 458-20-136 Manufacturing, processing for hire, fabricating.** (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.)

(2) **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 term "to manufacture" also includes:

(a) 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);

(b) The cutting, delimiting, and measuring of felled, cut, or taken trees, effective July 1, 1995 (chapter 211, Laws of 1999, and chapter 3, Laws of 1995 1st sp.s.);

(c) The crushing and/or blending of rock, sand, stone, gravel, or ore, effective July 1, 1995 (chapter 211, Laws of 1999, and chapter 3, Laws of 1995 1st sp.s.); and

(d) The cleaning of fish. The manufacturing B&O tax does not apply, however, if the cleaning activities are limited to the removal of the head, fins, or viscera from fresh fish without further processing, other than freezing. RCW 82.04.2403.

(3) 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:

(a) The conditioning of seed for use in planting ((or activities which consist of));

(b) The cubing of hay or alfalfa;

(c) The growing, harvesting, or production of agricultural products;

(d) The 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

(e) 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 458-20-193((A)).) 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)) RCW 82.04.260 provides several special classifications and rates for activities which constitute "manufacturing" ((as defined in this rule)) under RCW 82.04.120. In all such cases the principles set forth in subsections (6) and (7) of this rule concerning multiple tax classifications and credit provisions are also applicable. These special classifications and rates include:

(a) 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 ((RCW 82.04.260(2)));

(b) Splitting or processing dried peas ((RCW 82.04.260(3)));

(c) Manufacturing seafood products which remain in a raw, raw frozen, or raw salted state ((RCW 82.04.260(4)));

(d) Manufacturing by canning, preserving, freezing, processing, or dehydrating fresh fruits and vegetables ((RCW 82.04.260(5))); and

(e) Manufacturing nuclear fuel assemblies ((RCW 82.04.260(9)). In all such cases the principles set forth in sub-

sections (6) and (7) of this section concerning multiple tax classifications and credit provisions are also applicable).

(10) The special classification and rate provided by RCW 82.04.260 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 458-20-193((A)).)

(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 and use taxes.** 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.

((+5)) (a) RCW 82.08.02565 and 82.12.02565 provide retail sales and use tax exemptions for certain machinery and

equipment used by processors for hire and manufacturers.  
(See also WAC 458-20-13601.)

(b) Sales to processors for hire and to manufacturers of other 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.) 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.

~~((16) Use tax:))~~ (c) Manufacturers are taxable under the use tax upon the use of articles manufactured by them for their own use in this state unless a specific exemption applies. (See WAC 458-20-113 ~~((and)),~~ 458-20-134, and 458-20-13601 for certain express exemptions.)

~~((17))~~ (d) See WAC 458-20-244 for sales and use tax on food products.

## 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 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 RCW 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.

(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 requirement 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 manufacturing, and off-site testing by manufacturers, and to explain that

hand-powered tools were excluded. As of July 25, 1999, the exemption is 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.

(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) "Manufacturer" has the same meaning as provided in chapter 82.04 RCW.

(e) "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 term 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 preparation 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."

(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 a article, substance, or commodity for sale.

(f) "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 manufacturing operation or research and development operation to prevent air pollution, water pollution, or contamination that might otherwise result from the manufacturing operation or research and development operation. "M&E" means "machinery and equipment."



(g) "Processor for hire" has the same meaning as used in chapter 82.04 RCW and as explained in WAC 458-20-136.

(h) "Qualifying operation" means a manufacturing operation, a research and development operation, or, as of July 25, 1999, a testing operation.

(i) "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.

(j) "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.

(k) "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.

(l) "Tangible personal property" has its ordinary meaning.

(m) "Testing" means activities performed to establish or determine the properties, qualities, and limitations of tangible personal property.

(n) "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.

(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, or to sales of or charges made for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the machinery and equipment. 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.

You may obtain a copy of a M&E certificate form 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  
PO Box 47478  
Olympia, WA 98504-747

(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 RCW 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 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 is exempt from the use tax.

(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. The exemption is for M&E used



directly in a manufacturing operation or research and development operation. 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 that will be sold by the manufacturer. See WAC 458-20-136 and RCW 82.04.110 for more information. On and after July 25th, 1999, persons who engage in testing for manufacturers or processors for hire are eligible for the exemption.

(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. See subsection (9) for a discussion of the "used directly" criteria.

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 manufacturing operation, testing operation, or research and development operation to prevent air pollution, water pollution, or contamination that might otherwise result from the manufacturing operation, testing operation, or research and development 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, there are four categories of items that are statutorily excluded from eligibility, regardless of whether they are used directly in a qualifying operation. The following property is not eligible for the M&E exemption:

(a) Hand-powered tools. Screw drivers, hammers, and wrenches are examples of hand-powered tools. Electric, including cordless-powered tools, are not hand-powered tools.

(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 more than one year, such as certain sawmill blades, are eligible. See subsection (8) 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. The building itself is not eligible for the exemption but 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 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.

(8) **The "useful life" threshold.** 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. Tangible personal property that is acquired for a one-time use does not qualify for the M&E exemption, e.g. a mold or form that is discarded upon use. 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, the useful life criteria can be determined by answering the following questions for each individual piece of machinery and equipment:

(a) Is the machinery and equipment eligible to be and actually 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 or more 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 a part or component of an eligible item of machinery and equipment, 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, such as devices that take readings or probe with sensors, 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, 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; or

(h) Is integral to research and development as defined in RCW 82.63.010. There is no requirement that the research and development operation produce tangible personal property for sale.

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

**EMERGENCY**

**WSR 00-05-041  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 00-15—Filed February 10, 2000, 4:34 p.m.]

Date of Adoption: February 10, 2000.

**Purpose:** Commercial fishing rules.

**Citation of Existing Rules Affected by this Order:** Repealing WAC 220-52-07300T; 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.

February 10, 2000

J. P. Koenings

Director

by Larry Peck

**NEW SECTION**

**WAC 220-52-07300U 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 Monday, February 14, 2000. The maximum daily landing for a vessel on February 14, 2000 is 2,400 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. Marine Fish/

Shellfish Catch Reporting Areas 26B, 26C, 26D, and 28A are open only on February 16 and 17, 2000. 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.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07300T Sea urchins. (00-10)

**WSR 00-05-044**

**EMERGENCY RULES**

**DEPARTMENT OF CORRECTIONS**

[Filed February 11, 2000, 10:51 a.m.]

Date of Adoption: February 11, 2000.

Purpose: To establish rules for visiting correctional facilities.

Statutory Authority for Adoption: RCW 72.01.090.

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 readopt the substantive provisions of chapter 275-80 WAC, which was repealed by the Department of Social and Health Services (DSHS). Chapter 275-80 WAC was adopted when the Department of Corrections was the Adult Corrections Division of DSHS. The agency previously adopted emergency rules. While the agency has been actively taking steps to adopt rules on a permanent basis, the steps have not yet been completed. Immediate adoption remains necessary since rules on this subject are essential to ensure safety and security within correctional facilities. The agency filed its notice of intent to adopt permanent rules governing visitation of correctional facilities.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 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 27, 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.

February 11, 2000

Joseph D. Lehman

Secretary

**Chapter 137-125**

**CORRECTIONAL INSTITUTIONS - VISITS**

**NEW SECTION**

**WAC 137-125-005 Definitions.** (1) "Contraband" consists of illegal items, and other items not specifically defined as illegal as specified in regulations adopted by the superintendent of an institution and approved by the secretary, which an offender in a correctional institution may not have in his/her possession;

(2) A "group visit" is a visit to the institution for educational or informational purposes or for the purpose of attending or participating in institutional activities;

(3) "Illegal items" are those items defined by RCW 9.94.040 as illegal when in the possession of an offender in a correctional institution, such as weapons, controlled substances, and alcoholic beverages;

(4) "Immediate family" consists of parents, stepparents, parent surrogates, legal guardians, spouses, brothers, sisters, half or stepbrothers or sisters, children, stepchildren, and dependents who might not be in direct lineal relationship;

(5) "News media" refers to representatives of the press, radio, and television;

(6) A "personal visit" is a visit to an individual offender in a correctional institution by a friend or relative, or by a person visiting in a professional capacity such as a clergyman, attorney, or law enforcement official; members of the indeterminate review board shall not be considered visitors under this rule;

(7) "Real suspicion" is a subjective suspicion supported by objective, articulatable facts, which would reasonably lead an experienced prudent correctional institution staff member to believe that a crime is imminent, is occurring or has occurred.

**EMERGENCY**

NEW SECTION

**WAC 137-125-010 Visits—Purpose.** Personal visits are intended to maintain ties between the offender and his/her family and the community so as to facilitate his/her successful return to the community. Group visits and media visits are intended to establish closer contact and better understanding between the public and the correctional system.

NEW SECTION

**WAC 137-125-015 Visits—Registration.** Upon arrival at the institution, all visitors must register and upon request provide formal identification.

NEW SECTION

**WAC 137-125-040 Personal visits—General.** Personal visits will be regulated according to the following criteria:

- (1) Offenders shall have a maximum choice of visitors consistent with the security of the institution;
- (2) Restrictions on the number of visitors allowed an offender at any one time, and the restrictions on the frequency and duration of visits, shall be no more stringent than necessary in view of practical limitations of the institution, such as staff and space;
- (3) Visiting shall not be denied, terminated, or restricted as a sanction for infractions of other rules of the institution unrelated to visiting;
- (4) Visitors and offenders shall be treated courteously and every reasonable effort made to ensure that visits are comfortable and pleasant.

NEW SECTION

**WAC 137-125-042 Personal visits—Who may not visit.** The offender may not receive visits from:

- (1) Persons not included on his/her visiting list for approved visitors as provided for in WAC 137-125-044 unless an exception has been granted in accordance with WAC 137-125-140;
- (2) Persons associated with him/her in the commission of the offense for which he/she was incarcerated;
- (3) Parolees and probationers under active supervision unless they are members of his/her immediate family or are participating as volunteers or employees of the department in some other approved capacity in institutional programs or activities;
- (4) Persons under age 18 except with the consent of the parent or guardian. If under age 16, the visitor must be accompanied during the entire visit by a parent or guardian or any other approved visitor;
- (5) Persons under 18 years of age may not participate as a member of a group visiting within the security perimeter of the institution;
- (6) Persons who are members of the immediate family or close friends of an offender in the institution shall declare this fact and may enter beyond the security perimeter as part of a group only with the express permission of the superintendent.

NEW SECTION

**WAC 137-125-044 Personal visits—Approved visitor lists.** At the time of admittance, the offender shall be provided a copy of the personal visiting regulations and shall complete an application for each individual whom he/she wishes placed on his/her visiting list. The superintendent shall review each application for completeness, and, as appropriate, promptly and tentatively approve visits for the immediate family. The superintendent shall mail a visitor's questionnaire (see WAC 137-125-195(1)) to each prospective adult visitor, or to the parents or guardians of each prospective visitor under 18 years of age. Upon return and review of the questionnaire, the superintendent shall decide if the individual is to be placed on the offender's permanent visiting list, and shall notify both the offender and the prospective visitor of his/her decision. Denial of visiting rights must not be made on the basis of race, religion, sex, or national origin. If a person is denied placement on the offender's permanent visiting list, the superintendent shall inform the offender in writing of the reasons therefore.

NEW SECTION

**WAC 137-125-046 Personal visits—Alterations to visiting list.** (1) An offender may add names to his/her visiting list in accordance with limitations in WAC 137-125-042;

(2) The superintendent may delete a name from the list upon a finding of violation of visiting rules or serious abuse of visiting on the part of a visitor or offender, in which case he/she shall notify the visitor and the offender in writing stating the reasons for terminating the visiting rights.

NEW SECTION

**WAC 137-125-048 Personal visits—Transfer of offender.** When an offender is transferred to another correctional institution his/her approved visiting list shall be forwarded to and accepted by the receiving institution as previously approved. It shall be the responsibility of the offender to notify his/her visitors of such transfer.

NEW SECTION

**WAC 137-125-052 Personal visits—Visiting days and hours.** The superintendent of the institution shall establish and regulate visiting days and hours subject to the approval of the secretary. Each visitor shall be given a copy of the institution's rules concerning visits upon arrival at the institution for the first time, or by mail prior to that time.

NEW SECTION

**WAC 137-125-054 Personal visits—Hospitalized offender.** An offender who is a patient in the institution hospital may receive visitors subject to such limitations as are imposed by the attending physician. Such visits shall be supervised by an employee of the institution and visitors under the age of 18 must be accompanied by a responsible adult.

NEW SECTION

**WAC 137-125-060 Professional visits.** (1) In addition to the list of approved visitors, the offender may receive personal visits from persons visiting him/her in a professional capacity. No interview may take place without the offender's agreement except under subpoena;

(2) The superintendent may require advanced appointment for professional interviews unless it appears the circumstances do not permit delay;

(3) Appropriate space shall be made available for professional interviews so as to provide privacy consistent with the security needs of the institution;

(4) Upon entering the institution, any official or professional visitor shall be advised, verbally, that if information is exchanged which affects the safety or well-being of any offender, this information must be also communicated to the superintendent unless such communication would violate the confidentiality of a professional relationship.

NEW SECTION

**WAC 137-125-070 Group visit—General.** Each institution shall provide for reasonable access to the institution by groups of concerned citizens and for the participation by appropriate groups in activities of the offenders. The full range of institutional activities shall be shown and full public access, under supervision, shall be permitted to institutional facilities and practices. Areas to which public access is not feasible for reasons of security or privacy of offenders should be presented on film.

NEW SECTION

**WAC 137-125-072 Group visit—Arrangements.** (1) Groups wishing to visit an institution shall request permission from the superintendent in advance and schedule the visit at a time convenient to the institution. The spokesman for the group shall notify the superintendent of the approximate size of the group, the purpose of the visit, and the desired duration of the visit;

(2) An athletic team may with the approval of the superintendent arrange for a visit in order to compete with an offender team;

(3) The superintendent shall specify the sections of the institution to which the visiting group may have access and the duration of their visit.

NEW SECTION

**WAC 137-125-076 Group visit—Conduct.** (1) Group members shall conduct themselves in a dignified and orderly manner;

(2) Group members shall be permitted to converse with offenders they encounter during a visit;

(3) Cameras shall not be taken into the institution or photographs taken without special authorization of the superintendent;

(4) The group shall stay together unless the staff member in charge authorizes sub-groups.

NEW SECTION

**WAC 137-125-078 Group visit—Privacy of offenders.** Offenders shall be afforded privacy during groups visits and shall be given advance notice that visiting groups are expected.

NEW SECTION

**WAC 137-125-090 News media visits—General.** The superintendent shall honor requests by representatives of news media for admittance to the institution. Such representatives shall be treated courteously and shall be afforded reasonable access to all areas of the institution. The right of privacy of offenders shall be protected. The superintendent shall insure that representatives of news media are informed of these rules and of their responsibilities.

NEW SECTION

**WAC 137-125-095 News media visits—Limitations.** (1) Representatives of news media shall be advised on entering the institution that if they receive information which directly affects the safety of any offender or staff member, or indicates that a crime has been or will be committed, this information shall be communicated to the superintendent or an assistant, unless such communication would violate the confidentiality of a professional relationship;

(2) No interview with an offender may take place without his/her consent;

(3) When photographs are to be taken offenders must be notified and given the opportunity to withdraw from the scene;

(4) If the name or photographs of an offender are to be used, written consent of the offender must be secured.

NEW SECTION

**WAC 137-125-100 Exchange of material or items.** (1) A visitor may not bring contraband into an institution and may give an offender, or receive from an offender, only such items or materials as have been inspected and approved by the officer in charge;

(2) If an offender is on his/her way to or from a visit and he/she is found to have contraband in his/her possession, his/her visits may be suspended, if after a disciplinary hearing, it is determined the contraband was obtained during the visit.

NEW SECTION

**WAC 137-125-105 Search of visitors.** (1) To prevent possible delivery of weapons, controlled substances, or contraband to offenders, all visitors are subject to a frisk search and inspection of any purses, packages, briefcases, or similar containers which are brought behind the security walls of the institution or into the visiting area;

(2) If the frisk search, or independent evidence, establishes a real suspicion that smuggling of contraband or crim-

inal activity is imminent, there may be a search of the visitor's person;

(3) Female visitors shall only be searched by female staff members;

(4) When persons visiting in a professional capacity have a need for purses, packages, briefcases, or similar containers, such material may be admitted but is subject to search;

(5) Representatives of the news media may bring into the institution equipment essential to the purpose of their visit.

#### NEW SECTION

**WAC 137-125-110 Notice of search.** (1) Signs shall be posted at the entrances to the grounds of the institution and at the entrance to the visiting area giving notice that persons proceeding beyond these points may be subject to search.

(2) If the institution intends to search a visitor, verbal notice of this intent and the consequences of refusing search shall be given before search procedures may be initiated.

#### NEW SECTION

**WAC 137-125-115 Refusal to be searched.** A visitor has the option of refusing to be searched but may then be removed from the institution and denied visiting rights or entrance to the institution for a period not to exceed 90 days. If a visitor refuses to be searched on more than one instance, their visiting rights may be denied permanently. Restoration of visiting rights denied for refusal to be searched must be authorized by the superintendent or his/her designee.

#### NEW SECTION

**WAC 137-125-120 Search and discovery of illegal items.** If as a result of the search, illegal items are discovered, the superintendent shall report the matter to the local law enforcement officers for further action. The evidence and the suspect shall remain in the room in which the search took place and witnesses will be asked to remain until the arrival of the law enforcement officers. Institutional staff shall exercise all reasonable caution in not questioning the visitor.

#### NEW SECTION

**WAC 137-125-125 Denial of visits.** The superintendent may deny entrance to visitors if:

(1) The superintendent has prior knowledge leading him to a real suspicion that a visitor is attempting to smuggle in or out of the institution illegal or contraband items. If there is real suspicion substantially ahead of the arrival time of the visitor the superintendent should contact local law enforcement officers and allow them to handle any search procedures;

(2) There is a disturbance within the institution;

(3) There is clear and present, or imminent danger to the health and safety of any visitor, offender, or staff member;

(4) he/she has real suspicion to believe that criminal conduct will ensue if entrance is allowed;

(5) Visiting rights have been seriously abused by the offender;

(6) There is real suspicion to believe the visitor has attempted to bring contraband into the institution;

(7) Visitors fail to abide by the pertinent rules in this chapter.

#### NEW SECTION

**WAC 137-125-130 Suspension of visiting rights—Duration.** Visiting rights may be suspended for a single visitor or all visitors of a single offender depending on the seriousness of a visiting infraction. The visiting rights of an offender charged with violation of visiting rules may be suspended only after a finding of guilt pursuant to a regular disciplinary hearing and such rights may be abridged for a maximum duration of 90 days after which visiting rights shall be restored unless there remains a clear and present, or imminent danger to the health and safety of any visitor, offender, or staff member.

#### NEW SECTION

**WAC 137-125-135 Appeal of denial of visiting rights.** (1) A visitor may appeal the suspension, disapproval, or termination of his/her visiting rights to the superintendent of the institution. If still dissatisfied he/she may appeal by letter to the administrator of adult corrections. The letter should state the reason why the visitor should be permitted to visit and the circumstances surrounding the denial or termination.

(2) A group or a representative of the news media denied entrance to the institution or required to leave, may appeal to the secretary or his/her designee. The appeal should state the reasons the group or the representative believes he/she should be permitted to visit and the circumstances surrounding the denial or termination.

#### NEW SECTION

**WAC 137-125-140 Exceptions.** The superintendent may grant exceptions to normal visiting procedures in unusual circumstances to meet the special needs of an offender.

#### NEW SECTION

**WAC 137-125-195 Appendices.** (1) The text and format of the visitor's questionnaire referred to in WAC 137-125-044 are:

Read carefully:

Offender \_\_\_\_\_ Number \_\_\_\_\_ has asked that you be placed on his (her) visiting list. If you wish to visit the above named offender, please answer all questions listed below and return this form to sending institution within fifteen days of the date of mailing. Please return before (Month)/\_\_\_\_(Day) / \_\_\_\_ (Year)/

All questions must be answered. Any omission or falsification will be considered sufficient reason for your exclusion as a visitor. If you are under 16 years of age, you may visit only by special permission of the Superintendent, and

only if accompanied, during the entire visit, by a parent or person who is also an approved visitor. If you are between 16 and 18 years of age, you must have the signature of your parent or guardian.

WSR 00-05-045
EMERGENCY RULES
DEPARTMENT OF CORRECTIONS

[Filed February 11, 2000, 10:53 a.m.]

Name \_\_\_\_\_ Age \_\_\_\_\_
(first) (middle) (last)

Address \_\_\_\_\_
(number) (street) (city) (state) (zip)

Relationship to offender: (Mother, wife, friend, attorney, etc.)

Number of years and months you have known offender \_\_\_\_\_

Have you been involved in illegal or criminal activity with the above-named offender? \_\_\_\_\_

Are you now under active supervision of probation or parole?
Yes [ ] No [ ]

"A visitor has the option of refusing to be searched. However, a refusal to be searched may result in denial of admittance to or removal from the institution and a denial of all future visiting rights for a period of up to ninety days. A second refusal to be searched may result in a denial of visiting privileges for up to six months at which time the restoration of visiting rights will be reconsidered by the institution."

I am hereby advised of the authority provided to the institution by Adult Corrections Division Policy #75-1 that can require any person entering an adult correctional institution subject to:

- (A) A personal search and vehicle search whenever there is mere suspicion that a crime is being committed;
(B) Strip search whenever there is a "real suspicion" that a crime has occurred; or
(C) Probe and orifice search conducted by qualified medical personnel when there is evidence to support "clear indication" of criminal action.

Signature \_\_\_\_\_

Signature of parent or guardian (if applicable) \_\_\_\_\_

Date \_\_\_\_\_(Month)/\_\_\_\_\_(Day)/\_\_\_\_\_(Year)/

comments: \_\_\_\_\_

DO NOT WRITE BELOW THIS LINE

[ ] Approved \_\_\_\_\_
Superintendent's Signature

[ ] Denied (If denied, give reason(s)) \_\_\_\_\_

[ ] Copy to Offender \_\_\_\_\_
Offender's Signature

Date of Adoption: February 11, 2000.

Purpose: To establish procedures for detainees.

Statutory Authority for Adoption: RCW 72.01.090.

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 readopt the substantive provisions of chapter 275-76 WAC, which was repealed by the Department of Social and Health Services (DSHS). Chapter 275-76 WAC was adopted when the Department of Corrections was the Adult Corrections Division of DSHS. The agency previously adopted emergency rules. While the agency has been actively taking steps to adopt rules on a permanent basis, the steps have not yet been completed. Immediate adoption remains necessary since rules on this subject are essential for the safety and general welfare of the community affected by an offender's detainee. The agency filed its notice of intent to adopt permanent rules governing detainee.

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 16, 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.

February 11, 2000

Joseph D. Lehman

Secretary

NEW SECTION

WAC 137-130-005 Definitions. For purposes of this chapter: (1) "Detainer" shall mean a formal written request by a requesting authority to the superintendent of a correctional facility subject to the jurisdiction and control of the department asking that the superintendent

(a) Notify the requesting authority when the release of a particular offender is imminent, and/or

(b) Hold the offender pending transfer of the offender to the custody of the requesting authority.

(2) "Superintendent" shall refer to the chief administrator of a correctional facility subject to the jurisdiction and control of the department, or his/her authorized agents.

(3) "Department" shall mean the department of corrections of the state of Washington.

(4) "Requesting authority" shall mean any criminal justice agency which files a detainer with the department or with the superintendent of a correctional facility subject to the jurisdiction and control of the department.

(5) "State administrator" shall refer to the state officer designated, in accordance with the provisions of chapter 9.100 RCW, to administer the interstate agreement on detainees within the state of Washington.

(6) "Offender" shall refer to an inmate of a correctional facility subject to the jurisdiction and control of the department.

#### NEW SECTION

**WAC 137-130-010 Purposes of detainers.** Detainers may be filed with the department or with the superintendent of a correctional facility subject to the jurisdiction and control of the department in order to accomplish any of the following purposes:

(1) "Trial or pretrial detainers" — to secure the return of an offender to the jurisdiction and custody of the requesting authority for trial on pending criminal charges or for pretrial proceedings on potential but not yet pending criminal charges;

(2) "Commitment detainers" — to secure the return of an offender to the jurisdiction and custody of the requesting authority for service of an unexpired portion of the offender's sentence on a previous conviction;

(3) "Probation or parole revocation detainers" — to secure the return of an offender to the jurisdiction and custody of the requesting authority for a hearing on whether the offender's probation or parole, previously granted in connection with a prior conviction and sentence, should be revoked;

(4) "Miscellaneous detainers" — to secure the return of an offender to the jurisdiction and custody of the requesting authority for such miscellaneous purposes as are necessary and valid in the context of the criminal justice system.

#### NEW SECTION

**WAC 137-130-020 Form of detainers.** A detainer filed with the department or with the superintendent of a correctional facility subject to the jurisdiction and control of the department shall contain, and describe in detail, the following information:

- (1) The identity of the requesting authority;
- (2) The purpose of the detainer;
- (3) The legal basis for the detainer, including, in all cases, a description of the factual circumstances which provide the basis for the issuance of the detainer;
- (4) The sentence or possible penalties which the offender will face if delivered to the custody of the requesting authority;

(5) A statement as to whether it is the intention of the requesting authority to execute the detainer and subject the offender to trial, hearing, or incarceration.

#### NEW SECTION

**WAC 137-130-030 Evaluation of detainer request.** Whenever a superintendent receives a detainer request he/she shall evaluate the request to determine if it complies in form and content with the provisions of this chapter.

(1) If the superintendent determines that a detainer request is valid, he/she shall acknowledge in writing to the requesting authority that the detainer has been received and will be honored by the department in accordance with the provisions of the interstate agreement on detainers.

(2) If the superintendent determines that a detainer fails to comply with the provisions of this chapter and is therefore invalid, he/she shall forward the detainer request to the state administrator who shall then make a final determination as to the validity of the detainer.

(a) If the state administrator determines that the detainer is invalid he/she shall immediately

(i) Notify the requesting authority that the detainer will not be honored by the department;

(ii) Inform the requesting authority in detail of the manner in which the detainer fails to comply in form and/or content with the provisions of this chapter;

(iii) Inform the requesting authority that the detainer will be honored if refiled in compliance with the provisions of this chapter.

(b) If the administrator determines that the detainer is valid, he/she shall immediately inform the superintendent of his/her decision and ask the superintendent to acknowledge in writing to the requesting authority that the detainer has been received and will be honored by the department.

(3) If the superintendent determines that a detainer is in fact merely a request for notice as to the offender's present status or future release date, and not a request that the offender be held pending transfer to the custody of the requesting authority, he/she shall inform the requesting authority that

(a) The detainer will be honored as a request for notice,

(b) The offender will not be held by the department for transfer to the custody of the requesting authority, and

(c) The requesting authority may, if it wishes, file a new detainer, requesting that the offender be held by the department for transfer to the custody of the requesting authority.

#### NEW SECTION

**WAC 137-130-040 Trial or pretrial detainers.** (1) Who may file. The authority to issue or file trial or pretrial detainers shall generally be limited to the chief prosecuting authority of the jurisdiction making the detainer request.

(a) Nonprosecutorial officials, such as state or county sheriffs or police, shall not have authority to file detainers.

(b) In federal matters a United States marshal may formally file a detainer when acting on behalf of a United States district attorney or attorney general.



(2) Supportive materials necessary. Trial or pretrial detainees shall be accompanied by a certified copy of the complaint, indictment, information, or court order which is the jurisdictional basis for the detainer.

(3) Underlying charge. The underlying charge upon which a trial or pretrial detainer is based shall be either a felony or gross misdemeanor under the laws of the state of Washington.

(4) Notice to offender. Upon receipt of a valid trial or pretrial detainer a superintendent shall immediately notify the offender against whom the detainer has been filed of the existence, nature, and content of the detainer. In addition, the superintendent shall immediately notify the offender of his/her right to demand final disposition of the criminal charges underlying the detainer.

(5) Final disposition. An offender against whom a trial or pretrial detainer has been filed may demand of the requesting authority that a final disposition be made of the criminal charges underlying the detainer.

(a) A requesting authority shall be required to bring an offender to trial on the charges underlying a trial or pretrial detainer within one hundred and eighty days after receiving notice from the offender of the offender's place of incarceration and of his/her desire for final disposition of the underlying charges; provided that, a court having jurisdiction of the underlying charge may grant any necessary or reasonable continuance.

(b) An offender's demand for final disposition of the criminal charge underlying a particular detainer shall operate as a request for final disposition of the charges underlying any and all detainers filed against the offender by requesting authorities within the state to which the request for final disposition is directed.

(c) An offender's demand for final disposition shall be deemed a waiver of extradition with respect to any and all proceedings necessary to said final disposition.

(d) An offender's demand for final disposition shall be deemed a future waiver of extradition to the requesting state for service of any sentence imposed upon the offender in connection with said final disposition.

(e) An offender's demand for final disposition shall constitute consent to be returned to the institution where presently confined upon completion of the trial or pretrial proceedings in the requesting state.

(6) Request for temporary custody. A requesting authority which has filed a valid trial or pretrial detainer may request temporary custody of the offender for the purpose of resolving the criminal charges underlying the detainer.

(a) Upon receipt of a request for temporary custody from a requesting authority which has filed a valid trial or pretrial detainer, the superintendent shall immediately give the following notice to the offender who is the subject of the detainer:

(i) Notice of the source and content of the request for temporary custody,

(ii) Notice of the offender's right to retain counsel at his/her own expense to assist in opposing the request for temporary custody,

(iii) Notice of the offender's right to oppose the request for temporary custody by filing with the governor, within

thirty days of receipt of the request for temporary custody, a statement setting forth the reasons why the request for temporary custody should not be granted, and

(iv) Notice of the offender's right to contest, either before or after transfer, the legality of his/her transfer to the requesting authority pursuant to the request for temporary custody.

(b) In accordance with the provisions of chapter 9.100 RCW a request for temporary custody shall not be honored for a period of thirty days after receipt of the request, during which time the governor of the state of Washington may either approve or disapprove the transfer. If the governor either approves or fails within the thirty day time limit to disapprove the transfer, the request for transfer shall be honored at the end of said thirty day period.

(7) Offender in custody on appeal. An offender who is in custody pending disposition of his/her appeal from a state criminal conviction, and against whom a valid trial or pretrial detainer has been filed, may be transferred to the custody of a requesting authority pursuant to a request for final disposition or temporary custody.

(a) Whenever a request for final disposition or temporary custody is made with regard to an offender in custody pending appeal, the superintendent shall

(i) Give appropriate notice to the prosecuting attorney of the county in which the conviction was obtained and from which the appeal has been taken,

(ii) Notify and acknowledge to the offender and the requesting authority that the request for transfer has been received, and

(iii) Make a recommendation to the state administrator regarding the request for transfer.

(b) The state administrator shall determine, in the exercise of his/her discretion, whether the offender should be transferred pursuant to the request for final disposition or temporary custody or should be held in the custody of the department pending disposition of the appeal. The state administrator's determination shall be based upon the following factors:

(i) The recommendation of the superintendent,

(ii) The recommendation, if any, of the prosecuting attorney involved in the pending appeal,

(iii) The anticipated time for resolution of the pending appeal,

(iv) The desire of the offender, and

(v) Such other factors as may be relevant and material in the context of the individual case.

(8) Procedure for transfer, handling and return of offender. The transfer, handling, and return of an offender pursuant to a request for final disposition or a request for temporary custody shall be governed by the provisions of article V of the interstate agreement on detainers, RCW 9.100.010.

(9) One year time limitation. A jurisdiction wishing to file a trial or pretrial detainer against an offender held within the institutions of the state shall be required to file said detainer within one year after receiving actual notice that the offender is being held within this state.

If a requesting authority fails to proceed within the one year time limit, a subsequent trial or pretrial detainer filed by that requesting authority against the offender in question will

not be honored unless based upon an underlying charge of homicide or attempted homicide.

#### NEW SECTION

**WAC 137-130-050 Commitment detainers.** (1) Who may file. The authority to issue or file a commitment detainer shall be limited to the jurisdictional authority responsible for the custody of the offender in question upon his/her return to the requesting state. Such jurisdictional authorities would include parole agencies, probation agencies, or the agencies responsible for the administration of correctional institutions.

(2) Supportive materials. In addition to the information required by WAC 137-130-020, commitment detainers shall be accompanied by certified copies of the official court documents rendering the judgment and imposing the sentence which are the jurisdictional basis for the detainer and by a statement from the requesting agency setting forth the legal basis for its authority to execute the sentence which is the basis for the detainer.

(3) Notice to offender. Upon receipt of a valid commitment detainer, a superintendent shall immediately notify the offender against whom the detainer has been filed of the existence, nature, and content of the detainer.

#### NEW SECTION

**WAC 137-130-060 Probation or parole revocation detainers.** (1) Who may file. The authority to issue or file parole or probation revocation detainers shall be limited to the parole or probation authority which has initiated the revocation proceedings.

(2) Supportive materials necessary. In addition to the material required by WAC 137-130-020, parole or probation revocation detainers shall be accompanied by certified copies of all documents necessary to establish the requesting agency's jurisdictional authority to undertake the revocation proceedings.

(3) Notice to offenders. Upon receipt of a valid probation or parole revocation detainer, a superintendent shall immediately notify the offender against whom the detainer has been filed of the existence, nature, and content of the detainer.

(4) No right to demand final disposition. An offender against whom a probation or parole revocation detainer has been filed shall not be entitled to demand of the requesting authority that final disposition be made of the charges which are the basis for the pending revocation proceedings and the detainer.

#### NEW SECTION

**WAC 137-130-070 Miscellaneous detainers.** (1) Who may file. The authority to issue or file detainers other than those specified in WAC 137-130-040, 137-130-050 and 137-130-060 shall be limited to:

(a) The chief prosecuting authority of the jurisdiction making the detainer request, or

(b) Courts of general jurisdiction within the jurisdiction making the detainer request.

(2) Supportive materials necessary. In addition to the material required by WAC 137-130-020, miscellaneous detainers shall be accompanied by certified copies of all documents necessary to establish the requesting agency's jurisdictional authority to file and execute the detainer.

(3) Notice to offender. Upon receipt of a valid miscellaneous detainer the superintendent shall immediately notify the offender against whom the detainer has been filed of the existence, nature, and content of the detainer.

#### NEW SECTION

**WAC 137-130-080 Offender to be made available.** (1) Whenever a valid detainer is filed against an offender of an institution under the jurisdiction and control of the department, the superintendent of that institution shall take all such precautions as are reasonably necessary to assure that the offender shall be made available to the requesting authority upon his/her release from the custody of the department.

(2) Upon receipt of a valid detainer, the superintendent shall immediately order that the custody status of the offender in question be examined and appropriate action taken to assure the availability of the offender for transfer to the requesting authority.

(3) The superintendent shall give notice to the requesting authority of the date of the requested offender's release to parole or final release as soon as possible after the superintendent receives notice of said release date.

(a) The superintendent shall promptly notify the requesting authority whenever any changes are made in the offender's proposed release date.

#### NEW SECTION

**WAC 137-130-090 Reduced custody programs.** (1) If at the time a detainer is filed against an offender, the offender is participating in a reduced custody program, such as honor camp, furlough, or work release programs, the superintendent shall immediately notify the person in charge of such program of the detainer and the factual circumstances which provide the basis for its issuance and such person shall then promptly evaluate the appropriateness of the offender's continuing participation in such program.

(2) If an offender against whom a detainer has previously been filed should apply or be considered for placement in a reduced custody program, the superintendent shall consider the factual circumstances which provide the basis for issuance of the detainer along with all other relevant factors normally considered in determining the appropriateness of the offender's participation in the proposed reduced custody program.

#### NEW SECTION

**WAC 137-130-100 Requested offender on parole.** If, at the time a valid detainer is filed against an offender, the offender has been released on parole, the superintendent shall immediately

(1) Notify the offender that a valid detainer has been filed against him,

(2) Inform the requesting authority that the offender has been released on parole,

(3) Inquire of the requesting authority as to its intended course of action with regard to the detainer, and

(4) Inform the state board of prison terms and paroles that a valid detainer has been filed against the parolee-offender.

#### NEW SECTION

**WAC 137-130-110 Transfer of offender to mental hospital.** (1) If an offender against whom a valid detainer has been filed is to be transferred from an adult correctional institution to a state mental hospital, the superintendent of the correctional institution shall, in advance of the transfer:

(a) Notify the requesting authority of the proposed transfer of the offender and the reasons for the transfer; and

(b) Notify the superintendent of the mental hospital of the existence and nature of the detainer which has been filed against the offender.

(2) During the time in which an offender against whom a detainer has been filed is a patient of a state mental hospital, the superintendent of the mental hospital shall assume full responsibility for custody of the patient-offender and shall take all such precautions as are reasonably necessary to assure that the individual shall be made available to the requesting authority upon his/her release from the custody of the department.

#### NEW SECTION

**WAC 137-130-120 Recommendation for withdrawal of detainer.** (1) Prior to the anticipated release date of an offender against whom a valid detainer has been filed, the superintendent shall:

(a) Prepare an evaluation of the offender, outlining the offender's actions and activities while in custody in the institution and indicating whether a post-release parole plan and program has been developed for the offender,

(b) Make a recommendation to the state administrator as to whether the department should attempt to obtain the withdrawal by the requesting authority of the detainer filed against the offender,

(c) Furnish copies to the offender of said evaluation and recommendation.

(2) When the superintendent has recommended that the department seek the withdrawal of a detainer, the state administrator, after considering the circumstances of the offense for which the detainer was placed and the justification for the superintendent's recommendation, may

(a) Ask the requesting authority to withdraw the detainer, and

(b) Furnish the requesting authority with the evaluation and recommendation prepared by the superintendent.

(3) When a requesting authority indicates in writing that it wishes to withdraw a previously filed detainer, the superintendent shall notify the offender and the indeterminate sentence review board, and acknowledge to the requesting authority, that the detainer has been withdrawn.

(4) The superintendent shall hold and make the offender available for transfer to the requesting authority in accordance with the provisions of this chapter whenever a requesting authority either

(a) Indicates that it intends to exercise its detainer, notwithstanding the recommendation of the state administrator and the superintendent, or

(b) Fails to make a response to the state administrator's recommendation and inquiry.

#### NEW SECTION

**WAC 137-130-130 Identification of requesting authority's transferring agency.** (1) It shall be the responsibility of a superintendent, prior to delivering an offender to the custody of an agent of the requesting authority pursuant to a detainer, to verify

(a) The identity of the agent, and

(b) The jurisdictional authority of the agent to take custody of the offender pursuant to the detainer.

#### NEW SECTION

**WAC 137-130-140 Failure of requesting authority to take custody.** When the department has agreed to the transfer of an offender to the custody of a requesting authority on the date of the offender's release on parole or final release, the requesting authority shall be required to appear and take custody of the offender on said date. If the requesting authority fails to appear as required, the offender shall be released.

#### NEW SECTION

**WAC 137-130-150 Detainer request by nonsignator of interstate agreement on detainers.** The provision of this chapter shall be fully applicable to detainers filed with the department by a state which is not a signator to the interstate agreement on detainers, except that the procedure for transfer of an offender under such circumstances shall be governed by the provisions of chapter 10.88 RCW, the Uniform Criminal Extradition Act.

**WSR 00-05-047**

**EMERGENCY RULES**

**DEPARTMENT OF**

**FISH AND WILDLIFE**

[Order 00-16—Filed February 11, 2000, 2:54 p.m., effective February 13, 2000, 12 noon]

Date of Adoption: February 11, 2000.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-33-01000B; and amending WAC 220-33-010.

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: Fishery is designed to target surplus Willamette hatchery spring chinook that were allocated to this fishery by the Oregon Fish and Wildlife Commission, and minimize impacts to upriver bound spring chinook. Harvestable salmon and sturgeon are available. Impacts to ESA-listed stocks in these fisheries 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. This rule is consistent with actions of the Columbia River Compact hearings of January 27, 2000, and February 11, 2000, and conforms Washington and Oregon state rules. There is insufficient time to promulgate permanent [rules].

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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 13, 2000, 12 noon.

February 11, 2000

J. P. Koenigs

Director

**NEW SECTION**

**WAC 220-33-0100B Columbia River gillnet seasons below Bonneville.** Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, sturgeon, and shad, taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except during the times and conditions listed:

1) Mainstem Salmon Fishery

Area: SMCRA 1A, 1B, 1C, 1D and 1E.

Dates: Noon February 13 to 6 PM February 14, 2000

Noon February 15 to 6 PM February 16, 2000

Noon February 17 to 6 PM February 18, 2000

Gear: 8 inch minimum mesh and 9 3/4 inch maximum mesh restriction in SMCRA 1A, 1B, 1C, and those water of 1D upstream to Kelley Point at the mouth of the Willamette River.

9 inch minimum and 9 3/4 inch maximum mesh restriction in SMCRA 1D in those waters upstream of Kelley Point at the mouth of the Willamette River and SMCRA 1E.

Allowable Sale: Salmon and sturgeon.

Sanctuaries: Standard sanctuaries are in place.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. February 18, 2000:

WAC 220-33-0100B Columbia River gillnet seasons below Bonneville.

**WSR 00-05-063**

**EMERGENCY RULES**

**EMPLOYMENT SECURITY DEPARTMENT**

[Filed February 15, 2000, 2:54 p.m.]

Date of Adoption: February 14, 2000.

Purpose: To adopt new regulations clarifying provisions of SHB 3077, which provides for the payment of additional unemployment benefits for qualified dislocated workers enrolled in approved training. The regulations define terms, clarify eligibility requirements, and establish policies and procedures related to the approval and funding of training plans. The rules also clarify requalification requirements for individuals who have been disqualified from benefits.

Citation of Existing Rules Affected by this Order: Repealing WAC 192-16-017.

Statutory Authority for Adoption: RCW 50.12.010, 50.20.010, and chapter 2, section 8, Laws of 2000.

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: SHB 3077 was signed by the governor on February 7, 2000, and applies to weeks of unemployment beginning on February 13, 2000. Rules are necessary to clarify several provisions of the bill, and to ensure that it is implemented consistently state-wide. The emergency effective date of the legislation necessitates the adoption of emergency rules that will remain in effect while permanent rules are considered.

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 16, Amended 0, Repealed 1.

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.

EMERGENCY

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 14, 2000

Carver Gayton

Commissioner

#### NEW SECTION

**WAC 192-150-005 Effective date.** Sections 12, 13, and 14 of Chapter 2, Laws of 2000 apply to separations from employment or work refusals that occur on or after February 13, 2000.

#### NEW SECTION

**WAC 192-150-085 How to qualify after benefits have been denied.** Benefits may be denied under RCW 50.20.050(1) for voluntarily leaving work, RCW 50.20.060 for being discharged for misconduct, and RCW 50.20.080 for refusing an offer of suitable work or job referral. The denial of benefits will continue indefinitely until you show that:

(1) At least seven calendar weeks have elapsed since the act occurred that resulted in the denial of benefits;

(2) You have obtained bona fide work and earned wages of at least seven times your suspended weekly benefit amount. The wages earned must be in employment that is covered by Title 50 RCW.

### Chapter 192-270

#### Training Benefits for Dislocated Workers

#### NEW SECTION

**WAC 192-270-005 Definitions.** The definitions below apply to this chapter and Chapter 2, Laws of 2000:

(1) "Labor market" means the geographic area in which workers in your particular occupation or with your particular set of skills have customarily found work. Labor market is based on your place of residence at the time you separated from employment and your occupation.

(2) "NAICS" means the North American industry classification system code.

(3) "Plurality of wages" means the largest proportion of wages earned within a particular occupation or skill set. These wages must be earned in:

(a) Your base year, and

(b) At least two of the four twelve-month periods preceding your base year.

(4) "SIC" means the standard industrial classification code.

(5) "Skill set" means the work-related knowledge and abilities needed to produce a particular product or provide a particular service.

(6) "Training benefits" means the additional benefits paid under Chapter 2, Laws of 2000 to eligible dislocated workers enrolled in and making satisfactory progress in a training program approved by the commissioner.

(7) "Wages" means remuneration earned in employment as defined in Title 50 RCW. This means that only wages in covered employment can be considered in determining whether you have sufficient tenure in an occupation or in work with a particular skill set.

#### NEW SECTION

**WAC 192-270-010 Employment separations.** You must have been terminated or received a notice of termination from your employer to be eligible for training benefits. Training benefits are not available if you left work voluntarily regardless of whether you had good cause for leaving, or if you are disqualified from benefits for work-related misconduct under RCW 50.20.060, and have not requalified for benefits.

#### NEW SECTION

**WAC 192-270-015 Unlikely to return to employment.** Except as provided in Chapter 2, Section 8(3), Laws of 2000, you are unlikely to return to employment if:

(1) You have:

(a) Become unemployed due to a permanent plant closure;

(b) Received a federal WARN act notice; or

(c) Received a notice of indefinite layoff as a result of a permanent reduction of operations at your place of employment; and

(2) Suitable work for individuals with your skills is in diminishing demand within your labor market in your principal occupation or previous industry.

#### NEW SECTION

**WAC 192-270-020 Employment in the aerospace industry.** (1) Employment in the following SIC codes is considered employment in the aerospace industry:

3721	Aircraft
3724	Aircraft engines and engine parts
3728	Aircraft parts and auxiliary equipment

(2) Employment in the following NAICS code is considered employment in the aerospace industry:

336411 Aircraft manufacturing

#### NEW SECTION

**WAC 192-270-025 Employment in the forest products industry.** (1) As provided in Chapter 2, Section 8 (2)(b), Laws of 2000, the department has determined that employment in industries assigned the following SIC or NAICS codes is considered employment in the forest products industry:

(a) SIC codes:

- 24 Lumber and wood products, except furniture
- 26 Paper and allied products
- 08 Forestry
- 2861 Gum and wood chemicals
- 3553 Woodworking machinery
- 3554 Paper industry machinery manufacturing
- 5031 Lumber, plywood, millwork and wood panels

## (b) NAICS codes:

- 321 Wood product manufacturing
- 322 Paper manufacturing
- 113110 Timber tract operations
- 113210 Forest nurseries and gathering of forest products
- 113310 Logging
- 115310 Support activities for forestry
- 325191 Gum and wood chemical manufacturing
- 333210 Sawmill and woodworking machinery manufacturing
- 333291 Paper industry machinery manufacturing
- 337110 Wood kitchen cabinet and countertop manufacturing
- 421310 Lumber, plywood, millwork and wood panel wholesalers

(2) The department further determines that employment reported in industries assigned the following SIC or NAICS codes may be employment in the forest products industry. The department may review the specific nature of the employer's business to determine whether it represents employment in the forest products industry:

## (a) SIC codes:

- 2823 Cellulosic manmade fibers
- 3425 Saw blades and handsaws
- 3531 Construction machinery and equipment (trucks, off-highway; chippers; draglines; log splitters; logging equipment)
- 3711 Motor vehicles and passenger car bodies (tractors, truck: for highway use)
- 4212 Local trucking without storage (log trucking; trucking timber)
- 4449 Water transportation of freight, NEC (log rafting and towing)
- 4491 Marine cargo handling
- 5113 Industrial and personal service paper

## (b) NAICS codes:

- 325221 Cellulosic organic fiber manufacturing
- 332213 Saw blade and handsaw manufacturing
- 333120 Construction machinery manufacturing
- 333414 Heating equipment (except warm air furnace) manufacturing
- 336120 Heavy duty truck manufacturing
- 337215 Showcase, partition, shelving and locker manufacturing
- 422130 Industrial and personal service paper wholesalers
- 484220 Specialized freight trucking, local
- 483211 Inland water freight transportation

(3) Other employment may be considered to be employment in the forest products industry if it involves:

- (a) The planting and/or cultivation of trees for eventual harvest for lumber or paper manufacturing;
- (b) The harvest of logs for lumber or pulp production;
- (c) Hauling logs;
- (d) Hauling lumber or paper products from point of manufacture;
- (e) Scaling logs;
- (f) Repair of logging trucks or equipment;
- (g) Manufacture of wood processing or logging equipment;
- (i) Sale, rental or leasing of wood processing or logging equipment; or
- (j) Other activities clearly involved in the forest products industry, even if performed for an employer whose primary business is not in the forest products industry.

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

NEW SECTION

**WAC 192-270-030 Employment in the fishing industry.** Employment reported in industries assigned SIC code 0912, Finfish (commercial fishing), or NAICS code 114111, Fishing (finfish), is considered to be employment in the fishing industry.

NEW SECTION

**WAC 192-270-035 Timeframes.** Information about training benefits will be included in the claimant information booklet mailed to you at the time you file your application for unemployment benefits (see WAC 192-120-010).

(1) Submitting a training plan. You have 60 calendar days to submit a training plan to the department for approval, beginning on the date you are notified by the department about the eligibility requirements for training benefits. For new claims, the deadline will be 65 calendar days from the date your application for benefits is filed, which represents 60 days plus five days for the booklet to reach you by mail.

(2) Enrollment in training. You must be enrolled in training within 90 calendar days, beginning on the date you are notified by the department about the eligibility requirements for training benefits. For new claims, the deadline will be 95 calendar days from the date your application for benefits is filed, which represents 90 days plus five days for the booklet to reach you by mail.

(3) If you return to work, and subsequently become unemployed, the timeframes described in subsections (1) and (2) begin with the date you file your additional claim for benefits.

NEW SECTION

**WAC 192-270-040 Enrollment in training.** To receive training benefits, you must be enrolled in an approved training program on a full-time basis as determined by the educational institution. You are enrolled in training if:

- (1) You have preregistered for classes or are on a waiting list; and
- (2) You have a starting date of training; and
- (3) The starting date is not more than one quarter or term away.

#### NEW SECTION

**WAC 192-270-045 Requirements for applying for training benefits.** The following information must be included in your application for training benefits:

- (1) Your name and Social Security account number;
- (2) The name of the educational institution;
- (3) The address of the educational institution;
- (4) The department of the educational institution, if applicable;
- (5) The name of the training program;
- (6) A description of the training program, including remedial requirements if necessary;
- (7) Your enrollment date or your place on the waiting list and expected enrollment date;
- (8) The duration of the training program, including the dates you plan to begin and complete training;
- (9) The occupation(s) trained for;
- (10) A verification of your enrollment provided by the educational institution;
- (11) A release of information form authorizing the educational institution to release grades, attendance, and other measures of program progress to the department; and
- (12) Your signature.

#### NEW SECTION

**WAC 192-270-050 Criteria for approving training plans.** (1) The department will consider the following factors when reviewing your application for training benefits:

- (a) Whether suitable employment is available in your labor market;
- (b) Your plan for completion of the training including, but not limited to, what financial resources you intend to use to fund the complete training plan;
- (c) Whether you have the qualifications and aptitudes to successfully complete the training;
- (d) Whether the training relates to a high demand occupation, meaning that the number of job openings in the labor market for the occupation or with that skill set exceeds the supply of qualified workers;
- (e) Whether the training is likely to enhance your marketable skills and earning power, based on an assessment of what your employment prospects would be if training were not approved; and
- (f) Effective July 1, 2001, whether the educational institution meets the performance criteria established by the workforce training and education coordinating board. Until June 30, 2001, a vocational training program at an educational institution is presumed to meet the performance criteria if it is a:
  - (i) Public community or technical college;
  - (ii) Public university;
  - (iii) Registered apprenticeship program;

(iv) Private vocational school licensed by the workforce training and education board, the higher education coordinating board, the department of licensing, or a comparable agency in another state;

(v) Private college or university that is eligible to received federal funds under Title IV of the Higher Education Act of 1965; or

(vi) Private provider of vocational training services currently authorized by a private industry council in accordance with P.L. 97-300, Section 107, Selection of Service Providers.

(2) Academic training may be approved if it meets the criteria of subsection (1) and it meets specific requirements for certification, licensing, or specific skills necessary for the occupation.

(3) The department may approve educational training that has been identified as necessary by the training facility as a prerequisite to a vocational training program that meets the criteria of subsection (1).

(4) In the case of individuals with physical or sensory disabilities, or in other unusual circumstances, a written decision of the commissioner may waive any of the requirements of this section on an individual basis.

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

#### NEW SECTION

**WAC 192-270-055 Funding—Waiting lists.** Payment of training benefits is contingent upon the availability of funding. Training will not be approved under Chapter 2, Laws of 2000, unless the department has determined that funds are available to support your training plan.

(1) The amount of funds obligated will be the amount necessary to complete your training plan or the maximum amount authorized by Chapter 2, Section 8 (5)(a), Laws of 2000, whichever is less.

(2) If you have been denied training benefits due to lack of funds, the department will consider whether you are eligible for commissioner approved training under WAC 192-200-020.

(3) Funds will be obligated in the following order:

(a) First, otherwise eligible dislocated workers who are enrolled in training approved by the department as of February 13, 2000;

(b) Second, other eligible dislocated workers on a first-come, first-served basis, determined by the date the completed training application is received by the department.

(4) Once all available funds have been obligated, individuals who have been denied training benefits due solely to the lack of funds will be placed on a waiting list. Priority on the waiting list will be determined by the date the claimant's completed training application was received by the department. As additional funds become available, this date will be used when obligating funds to claimants on the waiting list. In the event two or more claimants on the waiting list have the same date, priority will be given to that person who is closest to exhausting regular unemployment benefits.

(5) An individual's name may be removed from the waiting list when the department determines it is appropriate. Examples include, but are not limited to:

(a) Written correspondence to the claimant from the department is returned by the U.S. postal service for lack of a current address, and the claimant has not filed a change of address with the department;

(b) The claimant fails to respond to written correspondence from the department by the date indicated in the correspondence;

(c) The claimant is not enrolled in or making satisfactory progress in full-time training; or

(d) The claimant's regular benefit year has ended.

#### NEW SECTION

**WAC 192-270-060 Occupation in high demand outside labor market.** A training plan may be approved in an occupation not in demand in your local labor market if:

(1) The occupation is in high demand in another labor market; and

(2) You are willing and able to relocate to that labor market when the training is completed; and

(3) There is not a current demand for workers with your present skills in that labor market. The demand for workers in that labor market must be at wages comparable to those paid in your current labor market, based on any differences in the cost of living between the two areas.

#### NEW SECTION

**WAC 192-270-065 Certification of satisfactory progress.** In order to continue your eligibility for training benefits, the certification that you are making satisfactory progress in full-time training must be signed by the registrar or an equivalent person designated by your educational institution.

#### NEW SECTION

**WAC 192-270-070 Modifying a training plan.** (1) You must notify the department immediately upon making a significant modification to your approved training plan. A significant modification is one that impacts any of the approval criteria listed in WAC 192-270-050 and includes, but is not limited to, changes in:

(a) Your course of study or major;

(b) The educational institution;

(c) The projected start or end dates for the training; or

(d) Your enrolled credit hours.

(2) The department must determine your continued eligibility for training benefits any time you make a significant modification to your training plan. Approval of a modification that increases the projected cost of the training is subject to the availability of funding.

(3) Any benefits paid after a modification to your training plan that has not been approved by the department constitute an overpayment and are subject to recovery under RCW 50.20.190.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 192-16-017

Interpretative regulations—  
Satisfying disqualifications  
under RCW 50.20.050 (1)  
and (4), 50.20.060 and  
50.20.080

#### **WSR 00-05-085**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF**

#### **FISH AND WILDLIFE**

[Order 00-17—Filed February 15, 2000, 5:06 p.m., effective February 16, 2000, 12:01 a.m.]

Date of Adoption: February 15, 2000.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900E and 232-28-61900F; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Hatchery broodstock needs in the North Puget Sound have been supplemented by 1.2 million winter steelhead eggs from the Bogachiel Hatchery. The repeal of the fishing closure in the vicinity of these hatchery facilities will promote the harvest of hatchery steelhead and prevent these fish from spawning with wild steelhead. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: February 16, 2000, 12:01 a.m.

February 15, 2000

J. P. Koenings

Director

by Larry Peck



**NEW SECTION**

**WAC 232-28-61900F Exceptions to statewide rules—Snohomish River, Snoqualmie River, Skykomish River, Wallace River, Sultan River, Pilchuck River, Tolt River, Raging River, Tokul Creek, Stillaguamish River, Canyon Creek, and Pilchuck Creek.** Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. February 16, 2000 the following regulations apply:

- Item 1: Snohomish River From mouth (Burlington Northern Railroad bridges (including all channels, sloughs and inter-connected waterways) upstream to the confluence of the Skykomish and Snoqualmie rivers (all channels): Wild steelhead release February 16, 2000 through March 31, 2000.
- Item 2: Snoqualmie River From mouth to falls: Wild steelhead release February 16, 2000 through March 31, 2000.
- Item 3: Skykomish River (Mainstem) From its mouth to mouth of the Sultan River: Wild steelhead release February 16, 2000 through February 29, 2000.  
From the mouth of the Sultan River to the forks: Wild steelhead release February 16, through March 31, 2000.
- Item 4: Skykomish River (North Fork) From its mouth to 1000' downstream from Bear Creek Falls: Wild steelhead release February 16, 2000 through February 29, 2000.
- Item 5: Skykomish River (South Fork) From its mouth to 600' downstream from the Sunset Falls Fishway: Wild steelhead release February 16, 2000 through February 29, 2000.
- Item 6: Wallace River From the mouth to mouth of Olney Creek: Wild steelhead release February 16, 2000 through February 29, 2000.
- Item 7: Sultan River From its mouth to a point 400' downstream from the diversion dam at river mile 9.7: Wild steelhead release February 16, 2000 through February 29, 2000.
- Item 8: Pilchuck River From its mouth to 500' downstream from the Snohomish City diversion dam: Wild steelhead release February 16, 2000 through February 29, 2000.
- Item 9: Tolt River From its mouth to the USFS trolley cable near the confluence of the North and South Forks: Wild steelhead release February 16, 2000 through February 29, 2000.
- Item 10: Raging River From its mouth to the Highway 18 Bridge (three miles upstream from Preston): Wild steelhead release February 16, 2000 through February 29, 2000.

- Item 11: Tokul Creek From its mouth to the posted cable boundary marker located approximately 700' upstream from the mouth: Wild steelhead release February 16, 2000 through March 31, 2000.
- Item 12: Stillaguamish River All sloughs downstream of Warm Beach-Stanwood Highway: Wild steelhead release February 16, 2000 through February 29, 2000.  
From Warm Beach-Stanwood Highway upstream to forks: Wild steelhead release February 16, 2000 through February 29, 2000.
- Item 13: Stillaguamish River (North Fork) From mouth to Swede Heaven Bridge: Wild steelhead release February 16, 2000 through February 29, 2000.
- Item 14: Stillaguamish River (South Fork) From mouth to Mt. Loop Highway Bridge (above Granite Falls): Wild steelhead release February 16, 2000 through February 29, 2000.
- Item 15: Canyon Creek From mouth to Forks: Wild steelhead release February 16, 2000 through February 29, 2000.
- Item 16: Pilchuck River From mouth of Highway 9 Bridge: Wild steelhead release February 16, 2000 through February 29, 2000.

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

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. February 16, 2000:

**WAC 232-28-61900E** Exceptions to statewide rules—Snohomish River, Snoqualmie River, Skykomish River, Wallace River, Sultan River, Pilchuck River, Tolt River, Raging River, Tokul Creek, Stillaguamish River, Cascade River, Canyon Creek, and Pilchuck Creek. (00-08)

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. April 1, 2000:

**WAC 232-28-61900F** Exceptions to statewide rules—Snohomish River, Snoqualmie River, Skykomish River, Wallace River, Sultan River, Pilchuck River, Tolt River, Raging River, Tokul Creek, Stillaguamish River, Canyon Creek, and Pilchuck Creek.

**EMERGENCY**

## WSR 00-05-087

## EMERGENCY RULES

## DEPARTMENT OF TRANSPORTATION

[Filed February 16, 2000, 8:15 a.m.]

Date of Adoption: February 16, 2000.

Purpose: To modify the rule covering the requirements for moving farm implements as they relate to the operation of pilot/escort vehicles. Specifically; adds farm implement dealers, and agri-chemical dealers (and employees of each) to the exemption to certain pilot/escort vehicle operational requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 468-38-290 Farm implements..

Statutory Authority for Adoption: RCW 46.44.090.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The current rule places an economic hardship on the agricultural community. Enforcement of WAC 468-38-110 Escort vehicle requirements, commences April 1, 2000. Without the emergency adoption of this rule a large segment of the agricultural community will be in noncompliance and subject to enforcement action, including fines and penalties.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0; Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

February 16, 2000

Gerald E. Smith

Deputy Secretary, Operations

**AMENDATORY SECTION** (Amending Order 192, filed 8/23/99, effective 9/23/99)

**WAC 468-38-290 Farm implements.** (1) A farm implement includes any device that directly affects the production of agricultural products, including fertilizer and chemical applicator rigs and equipment auxiliary to them. For purposes of this section, it must weigh less than forty-five thousand pounds, be less than twenty feet in width, and move on pneumatic tires, or solid rubber tracks having protuber-

ances that will not hurt the highway, when on public highways.

(2) Self-propelled farm implements, including a farm tractor pulling no more than two implements (no vehicle capable of carrying a load may pull more than one trailing implement, i.e., a truck of any kind) up to sixteen feet wide are exempt from acquiring a special motor vehicle permit for movement: Provided, That the movement of the implement(s) complies with the following safety requirements:

(a) Oversize signs: If the farm implement exceeds ten feet wide, it must display an "oversize load" sign(s) visible to both oncoming and overtaking traffic. Signs must comply with the requirements of WAC 468-38-190. If the implement is both preceded and followed by escort vehicles a sign will not be required on the implement itself.

(b) Curfew/commuter hours: Movement of a farm implement in excess of ten feet wide must also comply with any published curfew or commuter hour restrictions.

(c) Red flags: If the farm implement, moving during daylight hours, exceeds ten feet wide, the vehicle configuration must display clean, bright red flags at least twelve inches square, so as to waive freely at all four corners, or extremities, of the overwidth implement and at the extreme ends of all protrusions, projections or overhangs. If the transported implement exceeds the end of the trailer by more than four feet, one flag is required at the extreme rear, also, if the width of the protrusion exceeds two feet, there shall be required two flags at the rear of the protrusion to indicate the maximum width.

(d) Warning lights: Lamps, and other lighting must be in compliance with RCW 46.37.160 Hazard warning lights and reflectors on farm equipment—Slow moving vehicle emblem. The slow moving vehicle emblem is for equipment moving at a speed of twenty-five miles per hour or less.

(e) Convoys: Farm implement convoys shall maintain at least five hundred feet between vehicles to allow the traveling public room to pass safely. If five or more vehicles become lined up behind an implement, escorted or unescorted, the driver/operator of the transported implement, and escorts, if any, shall pull off the road at the first point wide enough to allow traffic to pass safely. Convoying of farm implements is permitted with properly equipped escort vehicles.

(f) Escort vehicles: In general, the use of escort vehicles must comply with WAC 468-38-110 Escort vehicle requirements and WAC 468-38-100, which covers when escort vehicles are required. The following specific exemptions are provided:

(i) A farmer (~~operating his own equipment, or operated by his employee (to include farmers working in a cooperative effort with their neighbors, but not to include commercial for hire farming operations), in transport between his own fields~~), farm implement dealer, or agri-chemical dealer (including employees of each) is exempt from WAC 468-38-110 (5)(a) and (b), (6) relative to passengers, WAC 468-38-110 (11)(e), and (16)(a) and (b) when (~~operating~~) moving a farm implement off of the interstate and on the following rural interstate segments:

I-90 between Exit 109 (Ellensburg) and Exit 270 (Tyler);

I-82 between junction with I-90 (Ellensburg) and Exit 31 (Yakima);

I-82 between Exit 37 (Union Gap) and Exit 102 (West Richland);

I-82 between Exit 114 and the Washington/Oregon border;

I-182 between junction with I-82 (West Richland) and junction with SR-395;

I-5 between Exit 208 (near Marysville) and Exit 250 (near Bellingham).

(ii) On two-lane highways, one escort vehicle must precede the implement(s) and one escort vehicle must follow the implement(s) when the width exceeds twelve and one-half feet wide; implements not exceeding twelve and one-half feet wide are exempt from using escort vehicles.

(iii) On multiple-lane highways, one escort in the rear is required if the vehicle exceeds fourteen feet wide.

(iv) A flagperson(s) may be used in lieu of an escort(s) for moves of less than five hundred yards. This allowance must be stated on any permit that may be required for the move.

(g) Road posting: Posting a route may be used in lieu of escort vehicles if the route to be traveled is less than two miles. Signs reading "oversize vehicle moving ahead" on a square at least three feet on each side (in diamond configuration), with black lettering on orange background, shall be placed at points before the oversize implement enters or leaves the highway and at any entry points along the way. The signs must be removed immediately after the move has been completed.

(3) Farm implements exceeding sixteen feet wide, but not more than twenty feet wide, are required to have a special motor vehicle permit for movement on state highways. A quarterly or annual permit may be purchased by a farmer, or any person engaged in the business of selling and/or maintaining farm implements, to move within a designated area, generally three to four counties. The permit is required to be physically present at the time of movement. In addition to the safety requirements listed in subsection (2) of this section, notification of a move (~~must~~) should be made to all (~~Washington state patrol detachment offices of~~) Washington department of transportation maintenance areas affected by the move, to determine if the route is passable. Phone listings are provided with each permit.

### WSR 00-05-093

#### EMERGENCY RULES

#### SECRETARY OF STATE

[Filed February 16, 2000, 8:59 a.m.]

Date of Adoption: February 16, 2000.

Purpose: Clarify ballot processing for the February 29, 2000, presidential primary election.

Citation of Existing Rules Affected by this Order: Amending WAC 434-219-280.

Statutory Authority for Adoption: RCW 29.19.070.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is

necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Ballot processing may begin on February 19, 2000. This change must be in place at that time.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Immediately.

February 16, 2000

Donald F. Whiting

Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 00-03-003, filed 1/6/00)

**WAC 434-219-280 Votes not tabulated.** In addition to WAC 434-219-255, the county auditor shall not tabulate votes in the presidential primary in the following cases:

(1) Where the voter has attempted to vote (~~more than once for that office~~) for more than one candidate on the same political party or unaffiliated ballot;

(2) Where the voter has voted on more than one political party or unaffiliated ballot (~~for candidates of more than one political party~~), in which case (~~all such votes~~) any vote cast on a ballot not matching the oath signed by the voter shall be rejected;

(3) Where a write-in vote is made for a person who has declined the nomination as provided by (~~WAC 434-75-070~~) WAC 434-219-070;

(4) Where the person issued a special or challenged ballot does not otherwise satisfy the constitutional or statutory requirements for voting;

(5) Where the voter has signed a political party oath and then cast a vote other than a write-in vote for a candidate whose name appears on a different party's ballot.

In those instances where the auditor is not sure whether a ballot or part of a ballot should be counted, he or she shall refer that ballot to the county canvassing board for their determination.

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

**WSR 00-05-099**  
**EMERGENCY RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
 [Filed February 16, 2000, 9:44 a.m.]

Date of Adoption: February 16, 2000.

Purpose: The private schools fingerprint check, as required by RCW 28A.195.080, requires a rule to clarify exactly what information received by the Federal Bureau of Investigation (FBI) is allowed to be disseminated to the private schools administrators by the Office of Superintendent of Public Instruction (OSPI).

Statutory Authority for Adoption: RCW 28A.150.290.

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: Emergency rule adoption is necessary to immediately implement an improved method in how the OSPI provides FBI records of arrest and prosecution [prosecution] (RAP) information to the private schools.

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 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

February 16, 2000  
 Dr. Terry Bergeson  
 Superintendent of  
 Public Instruction

**NEW SECTION**

**WAC 392-300-070 Private school fingerprint process.** Fingerprinting of subject individuals employed by private schools.

(1) Definitions of private school terms.

(a) "Subject individual" means: Any person, certified or classified employed by a private school in a position having regularly scheduled, unsupervised access to children;

(b) "Regularly scheduled, unsupervised access to children" means contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision;

(c) "Fee" means the total charges assessed to process fingerprint cards through the Washington state patrol and Federal Bureau of Investigation records check;

(d) "Information to be required" means all information requested by the office of the superintendent of public instruction including the following:

(A) Completed fingerprint card to be mailed, with the fee, to the Washington state patrol;

(B) Completed information form to be mailed to the superintendent of public instruction;

(e) "Convictions of crimes" means, notwithstanding any other statutes or Washington administrative rule, conviction of a crime listed in WAC 180-86-013, or being under indictment for any of the crimes listed in WAC 180-86-013;

(f) "Private school" means a school that is approved with the Washington state board of education under chapter 180-90 WAC.

(2) The office of the superintendent of public instruction shall request criminal information from the Washington state patrol and the Federal Bureau of Investigation in the manner prescribed by law. A fee shall be charged for such services.

(3) Upon the private school's submission of the completed fingerprint cards and information form, the office of the superintendent of public instruction shall review the criminal records of subject individual.

(4) The office of the superintendent of public instruction shall not provide copies of criminal records to anyone except as provided by law. The private school will receive a copy of subject individual's record of arrest and prosecution (RAP) sheet from the Washington state patrol. The subject individual will be sent a copy of his or her personal criminal records.

(5) For the Federal Bureau of Investigation portion, the superintendent of public instruction or designee shall notify the private school if the subject individual has been convicted of a crime listed in WAC 180-86-013, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Washington under a different statutory name or number; if the subject individual falsified information on the application form; or if the subject individual has no conviction of crimes as listed in WAC 180-86-013.

(6) The office of the superintendent of public instruction shall assure the destruction of all fingerprint cards, facsimiles or other materials from which fingerprints can be reproduced used by Washington state patrol or Federal Bureau of Investigation.

(7) Only cards and forms approved by the office of the superintendent of public instruction will be accepted. The office of the superintendent of public instruction will hold fingerprint cards on file and notify the private school and subject individual when there is no fee, an incorrect fee, when necessary information is missing from the fingerprint cards, or the information form was not received.

(8) The office of the superintendent of public instruction will return to the private school any fingerprint cards that the Washington state patrol or Federal Bureau of Investigation rejects for poor quality prints. The private school will be responsible for having the subject individual submit additional prints as required.

(9) The superintendent's office shall maintain a record of all properly submitted fingerprint cards in the current records

data base for a period of at least two years. The record shall include at least the following:

- (a) Card sequence number;
- (b) Name of private school submitting the cards;
- (c) Date cards received at the Washington state patrol;
- (d) Date letter regarding incomplete card was sent to the subject individual with a copy to the private school (only if applicable);
- (e) Date Washington state patrol received fingerprint cards;
- (f) Date private school was notified of Washington state patrol criminal history record or clearance;
- (g) Date private school was notified of Federal Bureau of Investigation record or lack of record.



**WSR 00-05-001****NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF****GENERAL ADMINISTRATION**

(Capitol Campus Design Advisory Committee)

[Memorandum—February 1, 2000]

Please publish notice of cancellation for the February 10, 2000, Capitol Campus Design Advisory Committee (CCDAC). If you have any questions call (360) 664-9212.

**WSR 00-05-003****ATTORNEY GENERAL'S OFFICE**

[Filed February 3, 2000, 2:40 p.m.]

**NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION  
WASHINGTON ATTORNEY GENERAL**

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest; *however, please be notified that we are expediting the below request and there may not be time to accept any comments.* You may notify the Attorney General's Office to inquire as to the status of this opinion by calling (360) 586-4218, or by writing to the Solicitor General, Office of the Attorney General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested; information about the Attorney General's Opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

The Attorney General's Office seeks public input on the following opinion request(s).

**00-01-06 Request by: LYNN KESSLER, House Democratic Leader  
BARBARA LISK, House Republican Leader  
JIM BUCK, Representative, 24th District  
BOB SUMP, Representative, 7th District  
MARK DOUMIT, Representative, 19th District  
BRIAN HATFIELD, Representative, 19th District**

**1. Do the state constitution, Enabling Act, and the amendments to the Enabling Act authorize the Legislature or**

**the Natural Resources Board to permit sales, exchanges, or transfers of land in excess of 160 acres?**

**2. The state constitution was not amended to reflect the 1970 amendments to the Enabling Act. Does this affect the Board's authority to exchange lands, and does it affect the Legislature's authority to establish a statutory program or budgetary provision for transfer of trust land?**

**3. What are the Board's obligations under RCW 79.68.045 (arrearages)?**

**4. Given certain restrictions, what are the Legislature's powers to act as a trustee?**

**5. What actions must the Legislature take, at a minimum, to ensure that it is fulfilling its responsibilities?**

**6. What actions is the Legislature, as trustee, obliged to take if it believes that the Board has abused the discretion delegated to it (see AGO 1996 No. 11)?**

**7. Under what circumstances is the Legislature authorized or required to review or intervene in the acts of the Board?**

**WSR 00-05-004****ATTORNEY GENERAL'S OFFICE**

[Filed February 3, 2000, 2:41 p.m.]

**NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION  
WASHINGTON ATTORNEY GENERAL**

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by February 23, 2000. This is not the due date by which comments must be received. However, if you do not notify the Attorney General's Office of your interest in commenting on an opinion request by February 23, 2000, the opinion may be issued before your comments have been received. You may notify the Attorney General's Office of your intention to comment by calling (360) 586-4218, or by writing to the Solicitor General, Office of the Attorney General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested; information about the Attorney General's Opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

MISC.

The Attorney General's Office seeks public input on the following opinion request(s).

**00-01-07 Request by: Vim Wright, Chair**  
**Washington State Conservation Commission**

1. Are farm plans, developed in whole or in part by conservation district staff, public documents under the state Public Records Act, RCW 42.17.250?
2. If farm plans are public documents, must they be disclosed under the Public Records Act if so requested?
3. When a request for disclosure of such farm plans under the state Public Records Act is received by a conservation district and that act requires disclosure of documents, is a conservation district precluded from disclosure by the preemptive effect of federal laws, specifically, the Economic Espionage Act, 18 U.S.C. § 1831 et. seq.; the Freedom of Information Act, 5 U.S.C. § 552; and the Privacy Act, 5 U.S.C. § 552(a)?

**WSR 00-05-005**  
**NOTICE OF PUBLIC MEETINGS**  
**BELLINGHAM TECHNICAL COLLEGE**

[Memorandum—February 3, 2000]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, February 17, 2000, 9-11 a.m., in the College Services Building Board Room on the Bellingham Technical College campus. Call 738-3105 ext. 334 for information.

**WSR 00-05-006**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**GENERAL ADMINISTRATION**

(State Capitol Committee)

[Memorandum—February 3, 2000]

Please record the following State Capitol Committee meeting dates, time and location in the Washington State Register:

Monday, April 10, 2000	1:30 p.m. - 3:30 p.m.	Legislative Building, Senate Rules Room
Monday, June 12, 2000	1:30 p.m. - 3:30 p.m.	Legislative Building, Senate Rules Room
Tuesday October 10, 2000	10:00 a.m. - 12:00 p.m.	Legislative Building, Senate Rules Room
Tuesday, December 12, 2000	10:00 a.m. - 12:00 p.m.	Legislative Building, Senate Rules Room

If you have any questions regarding these meeting dates, please contact Kim M. Moore at (360) 753-4286.

**WSR 00-05-009**  
**NOTICE OF PUBLIC MEETINGS**  
**EDMONDS COMMUNITY COLLEGE**

[Memorandum—February 1, 2000]

**EDMONDS COMMUNITY COLLEGE**  
**BOARD OF TRUSTEES**  
**NOTICE OF SPECIAL MEETINGS**  
**TO MEDIA/OTHER**

- February 1-3, 2000\* Trustees Association of Community and Technical Colleges (TACTC) Winter Conference, Cavanaugh's at Capitol Lake, Olympia, Washington.  
*Purpose: To address annual business.*
- February 2, 2000\* Legislative Dinner, Anthony's Homeport Restaurant, 760 Columbia Street North, Olympia, WA, 6:30-9:00 p.m.  
*Purpose: Annual dinner with legislators to address college issues.*
- February 15, 2000\* Echelbarger/Sherman Award Ceremony, Culinary Connection, Brier Hall, EdCC, 20000 68th Avenue West, Lynnwood, WA, 4:00 p.m.  
*Purpose: Award Ceremony honoring EdCC staff member.*
- February 16, 2000\* Governor's Press Conference/Morgridge Foundation Reception, State Reception Room, Third Floor Legislative Building, Olympia, Washington, 5:00-7:00 p.m.  
*Purpose: Press conference/ceremony honoring the John Morgridge Foundation for matching funds for the Puget Sound Center for Teaching, Learning and Technology.*
- February 17, 2000 Edmonds Community College Board of Trustees Regular Board Meeting: EdCC, Snohomish Hall, Room 304A, 20226 68th Avenue West, Lynnwood, WA, 4:00 p.m.  
*Purpose: To address routine college business issues.*
- February 25, 2000\* All-Washington Academic Team Ceremony, Capitol Rotunda, Olympia, Washington, 12:00 noon.  
*Purpose: Ceremony honoring EdCC students.*
- February 27-29, 2000\* Association of Community College Trustees National Legislative Seminar, Washington Marriott Wardman Park Hotel, Washington, DC.  
*Purpose: To address legislative issues.*

\*This event is being scheduled as a special meeting, which is a study session where no action will be taken.

MISC.



**WSR 00-05-013**  
**EXECUTIVE ORDER**  
**OFFICE OF THE GOVERNOR**  
 [EO 00-01—February 3, 2000]

**Promoting the Use of  
 Apprentices in Public Works Projects**

**WHEREAS**, a highly skilled workforce is essential for enhanced economic growth and the continued prosperity of workers throughout our state;

**WHEREAS**, apprenticeship is a proven, highly effective training model, as indicated by the 1998 Workforce Training and Education Coordinating Board report, providing consistent wage progression to family wage careers;

**WHEREAS**, the 1998 Employment Security Department report, *Studies in Industry and Employment*, highlighted that apprenticeship programs in Washington are "effective but underutilized;"

**WHEREAS**, shortages of skilled construction workers are currently limiting job growth and affecting our state's economy. This "skill gap" problem will continue to grow, due to the large number of skilled worker retirements and increased construction activity throughout the state;

**WHEREAS**, the responsibility to train the next generation of skilled workers rests with both the public and private sectors;

**WHEREAS**, the state of Washington is committed to working in partnership with labor and business to create a skilled workforce that reflects the diversity of our population and promotes community development throughout our state, in both urban and rural areas;

**WHEREAS**, recent actions of the Washington State Apprenticeship and Training Council (WSATC) have made apprenticeships more widely available in the construction industry;

**WHEREAS**, apprenticeship utilization programs have proven to be effective in the Cities of Seattle and Tacoma, the Port of Seattle, and King County and in the following manners:

- i. the next generation of skilled workers are being trained from within our own communities;
- ii. public resources are being used effectively to construct public facilities in a cost efficient manner, while making training opportunities available to a wide array of people in our state;
- iii. the tax base is expanding, while at the same time reducing unemployment and underemployment; and
- iv. women and minority participation in the workforce is being encouraged and is increasing in the construction trades.

**WHEREAS**, growing participation in apprenticeship programs today will ensure a viable workforce in the construction trade industry tomorrow;

**NOW THEREFORE, I, Gary Locke, Governor of the State of Washington, by virtue of the authority vested in me do hereby direct:**

All state agencies under the authority of the Governor shall require the participation of WSATC-registered apprentices in all public works as follows:

**1. Minimum Levels of Apprenticeship Participation** shall be:

A. For contracts awarded from July 1, 2000 through December 31, 2002, 10% of total labor hours for projects of more than \$2 million;

B. For contracts awarded from January 1, 2003 through December 31, 2003, 12% of total labor hours for projects of more than \$2 million;

C. For contracts awarded from January 1, 2004 forward, 15% of total labor hours for projects of more than \$1 million.

**2. Workforce Diversity Goals.** The voluntary goal of this executive order is to have as much as one-fifth of the apprentice hours performed by minorities, and one-sixth of the apprentice hours performed by women.

**3. Annual Statistics.** State agencies shall collect the following data:

- A. the name of each project;
- B. the dollar value of each project;
- C. the date of the contractor's Notice to Proceed;
- D. the number of apprentices and labor hours worked by them, categorized by gender, ethnicity, and trade or craft;
- E. the number of journey-level workers and labor hours worked by them, categorized by gender, ethnicity, and trade or craft; and
- F. the number, type, and rationale for the exceptions granted, pursuant to Section 5.

**4. Technical Assistance will be provided** by the Department of Labor and Industries' Apprenticeship Section as follows:

A. offering staff training and development with the Department of General Administration and other agency contract administrators;

B. disseminating information regarding this executive order to apprenticeship stakeholders during the regular WSATC quarterly meetings;

C. working together with the Department of General Administration and local communities to forecast and report expected apprentice needs; and

D. assisting the Department of General Administration in compiling apprenticeship data and determining apprentice availability.

**5. Exceptions.** Agency directors may adjust the requirements of this executive order, for a specific project for the following reasons:

A. the demonstrated lack of availability of apprentices in specific geographic areas;

B. a disproportionately high ratio of material costs to labor hours, which does not make feasible the required minimum levels of apprentice participation;

C. participating contractors have demonstrated a good faith effort to comply with the requirements of this executive order; or

D. other criteria the agency director may deem appropriate, which is subject to prior review by the Office of the Governor.

6. State Administrative Agency. The Department of General Administration shall administer this order and execute the following responsibilities:

- A. disseminate information regarding this executive order to affected state agencies and contractors;
B. develop minimal necessary program processes, documents and forms;
C. collect statistical data from affected agencies;
D. summarize and compile agency data by March 1 of each year and provide reports when requested by the Governor; and
E. make recommendations on modifications or improvements to the process.

7. Subcommittee of State Apprenticeship Council. The Washington State Apprenticeship Council shall appoint a subcommittee to respond to requests from the Department of General Administration for guidance on the exceptions to this executive order described in section 5.

8. Access to apprenticeship. The State Apprenticeship Council shall work with the Employment Security Department to expand access to apprenticeship programs within each service delivery area of the state employment and training system.

9. Expanding apprenticeship opportunities. The State Apprenticeship Council shall work with the WorkForce Training and Education Coordinating Board to inform parents, educators, and students about opportunities in apprenticeship.

This Executive Order shall take effect immediately.

IN WITNESS THEREOF, I have hereunto set my hand and caused the seal of the State of Washington to be affixed at Olympia, this 3rd day of February, A.D., Two-Thousand.

Gary Locke
Governor of Washington

BY THE GOVERNOR:
Donald F. Whiting
Assistant Secretary of State

WSR 00-05-018
NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE
[Memorandum—February 4, 2000]

EDMONDS COMMUNITY COLLEGE
BOARD OF TRUSTEES
NOTICE OF SPECIAL MEETINGS
TO MEDIA/OTHER

REVISED

- February 1-3, 2000\* Trustees Association of Community and Technical Colleges (TACTC) Winter Conference...
February 2, 2000\* Legislative Dinner, Anthony's Homeport Restaurant...
February 9, 2000\* Black History Month Speaker, Malik Moore...
February 15, 2000\* Echelbarger/Sherman Award Ceremony...
February 16, 2000\* Black History Month Honorary Luncheon...
February 16, 2000\* Governor's Press Conference/Morgridge Foundation Reception...
February 17, 2000 Edmonds Community College Board of Trustees Regular Board Meeting...
February 24, 2000\* Performance by Living Voices...
February 25, 2000\* All-Washington Academic Team Ceremony...

MISC.

February 27-29, 2000\* Association of Community College Trustees  
National Legislative Seminar, Washington  
Marriott Wardman Park Hotel, Washington,  
DC.  
*Purpose: To address legislative issues.*

March 4, 2000\* Big Bash Banquet, Triton Union Building,  
202, EdCC, 20000 68th Avenue West, Lyn-  
nwood, WA, 6:30 p.m.  
*Purpose: Black History Month banquet.*

May 11 and 12, 2000 Richland City Council Chambers  
Richland, Washington

August 10 and 11, 2000 Bishop Hotel  
Port Townsend, Washington

November 2 and 3, 2000 Kirkland Performing Center  
Kirkland, Washington

Please call (360) 586-1266 if you have any questions.

\*This event is being scheduled as a special meeting, which is a study session where no action will be taken.

**WSR 00-05-042**

**NOTICE OF PUBLIC MEETINGS  
OLYMPIC COLLEGE**

[Memorandum—February 8, 2000]

The following change is for Olympic College's special board of trustees meetings for the month of April 2000. The previously scheduled meeting was April 25, 2000. The new date of April 18, 2000, was approved by the trustees and this is notification of that change. Notification of this change will be provided to the media as well as the Olympic College community.

**MEETING NOTICE CHANGE  
APRIL SPECIAL BOARD MEETING**

April 18, 2000 5:00 p.m. Board Conference Room

**WSR 00-05-046**

**NOTICE OF PUBLIC MEETINGS  
COMMISSION ON  
AFRICAN AMERICAN AFFAIRS**

[Memorandum—February 11, 2000]

**2000 COMMISSION MEETING SCHEDULE**

In the event that commission meetings continue to be held every other month on the 4th Friday, the meeting dates would be as follows (with the exception of special meetings as needed):

Date	Place
January 7	Seattle
March 24	Bremerton
May 19 (3rd Friday due to holiday)	SeaTac
July 28	Yakima
September 22	Olympia
November 17 (3rd Friday due to holiday)	Tacoma

**WSR 00-05-029**

**NOTICE OF PUBLIC MEETINGS  
BATES TECHNICAL COLLEGE**

[Memorandum—February 8, 2000]

The board of trustees of Bates Technical College hereby notifies you of a change of time for their meeting of February 16, 2000.

The board will meet in executive session one hour prior to the regularly scheduled meeting (3 p.m.) on February 16, 2000. Trustees will discuss awarding/denial of tenure from approximately 2-3 p.m. No official board business will be conducted at this time.

**WSR 00-05-037**

**NOTICE OF PUBLIC MEETINGS  
ARTS COMMISSION**

[Memorandum—February 9, 2000]

The following are the dates and locations of the commission meetings for the year 2000:

February 22 and 23, 2000 General Administration Auditorium  
Olympia, Washington

March 24, 2000 Museum of Flight  
Seattle, Washington

MISC.

## WSR 00-05-052

## AGENDA

## DEPARTMENT OF HEALTH

[Filed February 14, 2000, 1:42 p.m.]

**Department of Health  
January 2000 Rules Agenda**

If you have any questions regarding this report or DOH rule-making activities, please contact Michelle Davis at (360) 236-4044.

WAC	RCW	Authority	Status	Subject	Program/Contact	WSR/Date
246-14		Secretary	Pre-CR-101	"Secretary authority" professions—Sexual misconduct	Health Professions Quality Assurance Division, Pam Lov- inger, (360) 236-4985	Anticipate CR-101 by 6/00
246-260	70.90.120, 70.90.150, 43.20.050	SBOH	Pre-CR-101	Water recreation facilities	Drinking Water Pro- gram, Jan Haywood, (360) 236-3011	Anticipate CR-101 by 6/00
246-290-49801		SBOH—delegated to secretary	Pre-CR-102 (exception)	Drinking water con- sumer confidence reports	Drinking Water Pro- gram, Jan Haywood, (360) 236-3011	Anticipate CR-101 by 6/00
246-292	43.70.040	Secretary	Pre-CR-101	Drinking water sys- tem operator certifi- cation (federal Safe Drinking Water Act requirement)	Drinking Water Pro- gram, Jan Haywood, (360) 236-3011	Anticipate CR-101 by 6/00
246-320, 330		Board of Hearing and Speech	Pre-CR-101	Location	Hearing and Speech, Pam Lovinger (360) 236-4985	Anticipate CR-101 by 6/00
246-808-150	43.70.280	Chiropractic Com- mission	Pre-CR-101	Chiropractic continu- ing education	Chiropractic Board, Pam Lovinger, (360) 236-4985	Anticipate CR-101 by 6/00
246-817-110	43.70.280	Dental Commis- sion	Pre-CR-101	Dental eligibility for licensure	Dental, Pam Lov- inger, (360) 236-4985	Anticipate CR-101 by 6/00
246-817-180	18.32.035	Dental Commis- sion	Pre-CR-101	Dental anesthesia	Dental, Pam Lov- inger, (360) 236-4985	Anticipate CR-101 by 6/00
246-817	18.32.035	Dental Commis- sion	Pre-CR-101	Continuing education for dentists	Dental, Pam Lov- inger, (360) 236-4985	Anticipate CR-101 by 6/00
246-828-350	18.35.161	Board of Hearing and Speech	Pre-CR-101	Reasonable cause for recision	Hearing and Speech, Pam Lovinger, (360) 236-4985	Anticipate CR-101 by 6/00
246-834-990	18.50.102, 43.70.250	Secretary	Pre-CR-101	Midwifery fees	Midwifery, Pam Lov- inger, (360) 236-4985	Pending 2000 leg- islative session
246-847-080 through 115	18.55.130	Occupational Therapy Board	Pre-CR-101	Occupational therapy qualification for licensure	Occupational Ther- apy Board, Pam Lov- inger, (360) 236-4985	Anticipate CR-101 by 6/00
246-853-110	18.57.005	Osteopathic Board	Pre-CR-101	Advertising	Osteopathic Board, Pam Lovinger, (360) 236-4985	Anticipate CR-101 by 6/00
246-887-160	18.64.005	Pharmacy Board	Pre-CR-101	Adding Dronabinol to Schedule III	Pharmacy Board, Pam Lovinger, (360) 236-4985	Anticipate CR-101 by 6/00
246-918		Medical Quality Assurance Com- mission	Pre-CR-101	Physician assistant licensing and practice	Health Professions Quality Assurance Division, Pam Lov- inger, (360) 236-4985	Anticipate CR-101 by 6/00
246-922-040	18.22.015	Podiatry Board	Pre-CR-101	Examination	Podiatry Board, Pam Lovinger, (360) 236- 4985	Anticipate CR-101 by 6/00
246-924-180	18.83.050	Psychology Board	Pre-CR-101	Psychology continu- ing education	Psychology Board, Pam Lovinger (360) 236-4985	Anticipate CR-101 by 6/00

New Chapter		Secretary	Pre-CR-101	Residential care facilities	Facilities and Services Licensing, Jennell Prentice (360) 705-6661	Anticipate CR-101 by 4/00
<b>CR-101 Filed</b>						
246-XXX	18.83.050, 18.83.070	Psychology Board	CR-101 filed	Education requirements/prerequisites	Psychology, Pam Lovinger, (360) 236-4985	98-22-088 11/03/98 Anticipate CR-102 by 5/00
246-XXX	18.83.050, 18.83.075	Psychology Board	CR-101 filed	Temporary practice permits	Psychology, Pam Lovinger, (360) 236-4985	98-23-070 11/17/98
246-924-370	18.83.050, 18.83.121	Psychology Board	CR-101 filed	Child custody evaluations	Psychology, Pam Lovinger, (360) 236-4985	98-22-087 11/03/98
246-XXX	74.15.060, 43.70.040	Secretary	CR-101 filed	Child day care regulations	FSL, Jennell Prentice, (360) 706-6661	97-09-054 4/07/99 Anticipate CR-102 by 6/00
246-XXX	18.64.005	Pharmacy Board	CR-101 filed	Legal use of needles and syringes	Pharmacy Board, Pam Lovinger, (360) 236-4985	00-03-171 1/19/00 Anticipate CR-102 by 6/00
246-XXX	18.64.005, 69.41, 69.50	Pharmacy Board	CR-101 filed	Electronic communication of prescription information	Pharmacy Board, Pam Lovinger, (360) 236-4985	98-14-118 7/1/98
246-XXX	18.57.080, 18.57.005, 18.130.050	Osteopathic Board	CR-101 filed	COMSPEX—USA exam	Osteopathic Board, Pam Lovinger, (360) 236-4985	99-11-035 5/13/99
246-25	43.72.310	Secretary	CR-101 filed	Establishing new anti-trust review fees	Certificate of Need, Jennell Prentice, (360) 706-6661	99-04-050 1/28/99 Anticipate withdrawal by 3/00
246-50	43.70.510	Secretary	CR-101 filed	Coordinated quality improvement program	Managed Care, Michelle Davis, (360) 236-4044	98-20-066 10/02/98
246-100	70.24.130, 70.24.380	SBOH	CR-101 filed	HIV/AIDS, AIDS omnibus law	Community and Family Health, John Peppert, (360) 236-3427	97-17-080 8/19/97 Anticipate withdrawal by 3/00
246-100	70.04.030, 43.70.545, 70.54.270	Secretary	CR-101 filed	Reporting pesticide poisoning, gunshot wounds and cancer	Office of the Secretary, Greg Smith, (360) 236-3704	98-09-113 4/22/98 Anticipate CR-102 by 6/00
246-100	43.20.050, 70.28.010, 70.28.032, 70.28.130, 70.58.350	SBOH/ Secretary	CR-101 filed	Reporting communicable diseases, blood lead, occupational diseases and conditions, and sentinel birth defects	Office of the Secretary, Greg Smith, (360) 236-3704	98-09-114 4/22/98 Anticipate CR-102 by 6/00
246-130	43.70.040, 43.70.120	Secretary	CR-101 filed	HIV infection interventions	Infectious Diseases and Reproductive Health, Vince Collins, (360) 236-3453	99-20-035 9/29/99
246-205	64.44	Secretary	CR-101 filed	Meth lab clean up standards	Environmental Health Programs, Jan Hayward, (360) 236-3011	99-21-062 10/19/99
246-205	64.44	SBOH	CR-101 filed	Meth lab clean up standards	Environmental Health Programs, Jan Hayward, (360) 236-3011	99-21-063 10/19/99

246-246 (Chapter)	70.98.050	Secretary	CR-101 filed	Environmental radioactivity	Radiation Protection, Jan Haywood, (360) 236-3011	94-04-041 4/19/94 Anticipate withdrawal by 3/00
246-249-080	70.98.050, 70.98.080	Secretary	CR-101 filed	Naturally occurring radioactive materials	Radiation Protection, Jan Haywood, (360) 236-3011	96-11-129 5/22/96
246-282	69.30	SBOH	CR-101 filed	Chapter revision	Shellfish, Jan Haywood, (360) 236-3011	94-12-088 6/1/94 Anticipate CR-102 by 6/00
246-296		Secretary	CR-101 filed	Joint rules on federal drinking water state revolving fund	Drinking Water, Jan Haywood, (360) 236-3011	98-04-092 2/4/98
246-380	43.70.040, 43.70.130	Secretary	CR-101 filed	Sanitation and health care standards for state institutions	Facilities and Services Licensing, Jennell Prentice, (360) 705-6661	98-15-088 7/16/98
246-490 New Chapter	70.58.082	Secretary	CR-101 filed	Release of birth certificates	Center for Health Statistics, Teresa Jennings, (360) 236-4307	98-07-079 3/17/98 Anticipate CR-102 by 3/00
246-562	70.185	Secretary	CR-101 filed	Physician visa waiver	Office of Community and Rural Health, Kelly Shaw, (360) 705-6763	99-15-101 7/21/99 Anticipate CR-102 by 4/00
246-760	28A.210.020	SBOH	CR-101 filed	Auditory and visual standards—School districts	Community and Family Health, Donna White, (360) 236-3564	99-11-030 5/13/99
246-762	28A.210.020	SBOH	CR-101 filed	Scoliosis screening—School districts	Community and Family Health, Donna White, (360) 236-3564	99-11-031 5/13/99
246-790	43.70.120	Secretary	CR-101 filed	WIC	Community and Family Health, Susan Evans, (360) 236-3636	99-13-082 6/14/99
246-811	18.205.100	Secretary	CR-101 filed	Chemical dependency counselors, retired active status	Chemical Dependency Pros, Pam Lovinger (360) 236-4985	99-14-073 7/6/99
246-811	18.205.060	Secretary	CR-101 filed	Continuing competency	Chemical Dependency Pros, Pam Lovinger, (360) 236-4985	99-15-034 7/14/99
246-811	18.205.060	Secretary	CR-101 filed	Disclosure statements	Chemical Dependency Pros, Pam Lovinger, (360) 236-4985	99-15-035 7/14/99
246-811	18.205.100	Secretary	CR-101 filed	Educational programs and alternative training	Chemical Dependency Pros, Pam Lovinger, (360) 236-4985	99-16-048 7/30/99
246-826-080	18.135	Secretary	CR-101 filed	Health care assistants update of chapter	Health Care Assistants, Pam Lovinger, (360) 236-4985	96-15-072 7/18/96
246-828-080 to 100	18.35.161	Board of Hearing and Speech	CR-101 filed	Standards of practice	Hearing and Speech, Pam Lovinger, (360) 236-4985	99-22-089 11/2/99
246-828-510	18.35.090	Board of Hearing and Speech	CR-101 filed	Hearing/speech—Continuing education requirements	Hearing and Speech, Pam Lovinger, (360) 236-4985	97-15-097 7/21/97
246-830	18.108.025	Secretary	CR-101 filed	Massage therapy examinations	Massage, Pam Lovinger, (360) 236-4985	98-21-080 10/21/98
246-834	18.122.140	Secretary	CR-101 filed	Reactivation of midwifery license	Midwifery, Pam Lovinger, (360) 236-4985	98-21-081 10/21/98

MISC.

246-834-220, 230 & 240	18.50.040	Secretary	CR-101 filed	Educational requirements for nonlicensed midwives	Midwifery, Pam Lovinger, (360) 236-4985	97-22-024 10/29/97
246-834-900	18.130.250	Secretary	CR-101 filed	Retired active status	Midwifery, Pam Lovinger, (360) 236-4985	99-06-090 3/3/99
246-840	18.79.110	Nursing Commission	CR-101 filed	Telenursing	Nursing Commission, Pam Lovinger, (360) 236-4985	99-11-033 5/13/99
246-840	18.79.100, 18.13.180	Nursing Commission	CR-101 filed	Nursing—Alcohol on breath	Nursing Commission, Pam Lovinger, (360) 236-4985	99-09-098 4/21/99
246-840-010, 760, 920, 020, 565	18.79.110	Nursing Commission	CR-101 filed	Nursing definitions	Nursing Commission, Pam Lovinger, (360) 236-4985	99-11-032 5/13/99
246-840-300 to 450	18.79	Nursing Commission	CR-101 filed	ARNP specialties	Nursing Commission, Pam Lovinger, (360) 236-4985	97-12-029 5/30/97
246-840-700, 705, 710 and 715	18.79.110	Nursing Commission	CR-101 filed	Nursing care quality assurance	Nursing Commission, Pam Lovinger, (360) 236-4985	98-23-071 11/17/98
246-840-840 to 900	18.79.110, 18.13.180	Nursing Commission	CR-101 filed	Nursing technicians	Nursing Commission, Pam Lovinger, (360) 236-4985	99-14-002 6/23/99
246-853	18.57.005, 18.57.020	Osteopathic Board	CR-101 filed	Approved schools of osteopathic medicine	Osteopathic Board, Pam Lovinger, (360) 236-4985	99-13-020 6/7/99
246-853-225	18.57.005, 18.57.020	Osteopathic Board	CR-101 filed	Osteopathic pain management guidelines	Osteopathic Board, Pam Lovinger, (360) 236-4985	98-22-086 11/03/98
246-869-220	18.65.005	Pharmacy Board	CR-101 filed	Patient information required	Pharmacy Board, Pam Lovinger, (360) 236-4985	98-11-065 5/19/98
246-883-030	18.64.450	Pharmacy Board	CR-101 filed	Ephedrine prescription restrictions	Pharmacy Board, Pam Lovinger, (360) 236-4985	97-10-033 4/30/97
246-901	18.64A	Pharmacy Board	CR-101 filed	Pharmacy assistant	Pharmacy Board, Pam Lovinger, (360) 236-4985	97-16-087 8/5/97
246-904	18.64.005	Pharmacy Board	CR-101 filed	Health care entity definitions	Pharmacy Board, Pam Lovinger, (360) 236-4985	98-04-037 1/29/98
246-915	18.74.023, 18.74.025, 18.130.050, 18.130.180	Physical Therapy Board	CR-101 filed	Sexual misconduct	Physical Therapy, Pam Lovinger, (360) 236-4985	98-13-106 6/17/98
246-915-010 and 085	18.74.023	Physical Therapy Board	CR-101 filed	Continuing competency	Physical Therapy, Pam Lovinger, (360) 236-4985	98-15-088 7/16/98
246-915-020, 030, 120	18.74.023, 18.74.035	Physical Therapy Board	CR-101 filed	Application requirements	Physical Therapy, Pam Lovinger, (360) 236-4985	98-13-107 6/17/98
246-915-010, 078, 140-170	18.74.023	Physical Therapy Board	CR-101 filed	Defining professional responsibilities	Physical Therapy, Pam Lovinger, (360) 236-4985	98-13-104 6/17/98
246-915-150	18.74.023, 18.74.010	Physical Therapy Board	CR-101 filed	Physical therapy supervision ratio	Physical Therapy, Pam Lovinger, (360) 236-4985	98-13-105 6/17/98
246-915-210 to 280	18.74.023, 18.130.070	Physical Therapy Board	CR-101 filed	Mandatory reporting	Physical Therapy, Pam Lovinger, (360) 236-4985	98-13-103 6/17/98
246-918-081	18.71.017, 18.71.080	Medical Quality Assurance Commission	CR-101 filed	Expired license	MQAC, Pam Lovinger, (360) 236-4985	98-22-082 11/03/98

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246-922-195	18.22.015	Podiatry Board	CR-101 filed	Podiatry pain management	Podiatry Board, Pam Lovinger, (360) 236-4985	98-22-084 11/03/98
246-928	18.89.050	Secretary	CR-101 filed	Respiratory care practitioners	Respiratory Care Practitioners, Pam Lovinger, (360) 236-4985	98-08-114 4/1/98
246-930-330	18.155.040, 18.13.050	Secretary	CR-101 filed	Standards for treatment sexual offender treatment providers	SOTP, Pam Lovinger, (360) 236-4985	99-14-001 6/23/99
246-935	18.92.030	Veterinary Board	CR-101 filed	Animal technicians—Continuing education, continuing competency	Veterinary, Pam Lovinger, (360) 236-4985	99-15-102 7/21/99
246-935-040 to 060	18.92.030	Veterinary Board	CR-101 filed	Animal technicians—Supervision, health care tasks, exam	Veterinary, Pam Lovinger, (360) 236-4985	99-15-103 7/21/99
246-939 New Chapter	18.215, 18.130.050	Secretary	CR-101 filed	Registration of surgical technologists	Health Professions Quality Assurance Division, Pam Lovinger, (360) 236-4985	99-20-057 10/1/99
<b>CR-102 filed</b>						
246-221, 246-235, 246-243	70.98.050	Secretary	CR-102 filed hear 3/9/00	Requirements for industrial radiography	Radiation Protection, Jan Haywood, (360) 236-3011	00-04-088 2/2/00
246-338	70.42.005, 70.42.060	Secretary	CR-102 filed hear 2/22/00	Medical test site rules—Revise for clarity	Lab Quality Assurance, Jennell Prentice, (360) 705-6661	00-03-073 1/19/00
246-780	43.70.120	Secretary	CR-102 filed hear 2/25/00	Farmers market WIC program	Community and Family Health, Sheryl Pickering, (360) 236-3655	98-14-117 7/1/98
246-976-001 to 450, 246-976-910 to 990, except 935	18.71, 18.73, 70.168	Secretary	CR-102 filed Hear 2/23/00	Biennial review of the EMS and trauma care chapter	EMS and Trauma, Tami Schweppe, (360) 705-6768	96-21-118 10/22/96
<b>Pending adoption</b>						
246-14	18.130.095	Secretary	Pending Adoption	Complaint investigation timelines	Health Professions Quality Assurance Division, Pam Lovinger, (360) 236-4985	99-22-091 11/02/99
246-246	70.98.050	Secretary	Pending Adoption	Radiation clean up standards	Radiation Program, Jan Haywood, (360) 236-3011	99-22-086 11/02/99
246-358	70.114A.065, 70.114A.110	Secretary	Pending Adoption	Temporary worker housing—Joint rules with L&I	Facilities and Services Licensing, Jennell Prentice, (360) 705-6661	99-15-108 7/21/99 Anticipate adoption 2/00
246-808-101, -301, 320 to 390, 640	18.25	Chiropractic Commission	CR-101XR filed Pending Adoption	Chiropractic standards of care for conduct of practice	Chiropractic Commission, Pam Lovinger, (360) 236-4985	99-03-061 1/18/99
246-808-700	70.02	Chiropractic Commission	CR-101XR filed Pending Adoption	Chiropractic—Cooperation with an investigation	Chiropractic Commission, Pam Lovinger, (360) 236-4985	00-04-087 2/2/00
246-830-485	18.108	Secretary	Pending Adoption	Somatic educators	Massage, Pam Lovinger, (360) 236-4985	00-01-185 12/22/99
246-883-050	18.64.005	Pharmacy Board	CR-101XR filed Pending Adoption	Theophylline	Pharmacy Board, Pam Lovinger, (360) 236-4985	98-07-088 3/17/98
246-883-020	69.41.075	Pharmacy Board	Pending Adoption	Identification of legend drugs	Pharmacy Board, Pam Lovinger, (360) 236-4985	99-18-083 8/31/99



KEY: *Exception Rule:* The rule is "exempt" under RCW 34.05.310(4), and does not require the filing of a CR-101.

*CR-101 Filed:* The statement of inquiry has been filed with the Code Reviser's Office.

*Pending Hearing:* The CR-102 has been filed but the hearing has not been held yet.

*Pending Adoption:* The hearing has been held OR the rule qualifies under the Expedited Repeal or Adoption processes (RCW 34.05.354 and 34.05.356), but the CR-103 has not been filed.

**WSR 00-05-053**  
**RULES OF COURT**  
**STATE SUPREME COURT**  
[February 10, 2000]

IN THE MATTER OF THE ADOPTION ) ORDER  
OF THE AMENDMENTS TO RAP 18.6 ) NO. 25700-A-678

The Supreme Court Commissioner having recommended the adoption of the proposed amendment to RAP 18.6, and the Court having determined that the proposed amendment will aid in the prompt and orderly administration of justice and further determined that an emergency exists which necessitates an early adoption;

Now, therefore, it is hereby

ORDERED:

(a) That the amendment as attached hereto is adopted.

(b) That pursuant to the emergency provisions of GR 9(i), the amendment will be published expeditiously and become effective upon publication.

DATED at Olympia, Washington this 10th day of February, 2000.

Ireland, J.

Smith, J.

Richard P. Guy

Johnson, J.

Sanders, J.

Madsen, J.

Alexander, J.

Talmadge, J.

Bridge, J.

**RAP 18.6**  
**COMPUTATION OF TIME**

(a) Generally. In computing any period of time prescribed by these rules, the day of the event from which the time begins to run is not included. The last day of the period so computed is included unless it is a Saturday, Sunday, or legal holiday, in which case the period extends to the end of the next day which is not a Saturday, Sunday, or legal holiday. When the period of time prescribed or allowed is less

than 7 days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

(b) Service by Mail. Except as otherwise provided in rule 17.4, if the time period in question applies to a party serving a paper by mail, the paper is timely served if mailed within the time permitted for service. If the time period in question applies to the party upon whom service is made, the time begins to run 3 days after the paper is mailed to the party.

(c) Filing by Mail. A brief authorized by Title 10 or Title 13 is timely filed if mailed to the appellate court within the time permitted for filing. Except as provided in rule 17.4, any other paper, including a petition for review, is timely filed only if it is received by the appellate court within the time permitted for filing.

**WSR 00-05-062**  
**DEPARTMENT OF ECOLOGY**  
[Filed February 15, 2000, 1:08 p.m.]

**PUBLIC NOTICE**  
**ISSUANCE OF NPDES/STATE DAIRY OPERATION**  
**GENERAL DISCHARGE PERMIT**

The purpose of this public notice is to provide notice the Washington Department of Ecology issued the NPDES/state dairy operation general discharge permit on March 1, 2000. The effective date of the permit is April 1, 2000.

Any commercial dairy farm meeting the definition of a concentrated dairy animal feeding operation under chapter 90.64 RCW or the definition of a concentrated animal feeding operation under Part 40 C.F.R. 122.23, Appendix B, is required to obtain coverage under the permit.

The permit applies to the entire state of Washington. Permit coverage will be approved upon the submittal of a completed NPDES/state dairy waste general permit application form to appropriate ecology regional or field office.

The facilities to be covered under this permit include:

- Current holders of permit coverage under the September 3, 1994 NPDES/state dairy waste general permit,
- Dairy farms voluntarily submitting an application for coverage under the new permit,
- Dairy farms requiring permit coverage that were unable to obtain coverage since expiration of the 1994 permit on September 2, 1999,
- Dairy farms identified through future ecology inspections that meet the definition of a concentrated dairy animal feeding operation and require permit coverage.

The primary changes to the draft permit involves editing for greater consistency with the federal Clean Water Act and state Dairy Nutrient Management Act.

Coverage under the permit may be obtained by submitting to the appropriate ecology regional office a completed "Dairy Waste General Discharge Permit Application for Coverage," Publication ECY 040-7, revised August 1995.

MISC.

This permit may be appealed. Your appeal must be filed with the Pollution Control Hearings Board, P.O. Box 40903, Olympia, WA 98504-0903 within thirty days of issuance of the permit. At the same time, your appeal must be served to the Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7666,

Attn: Phil KauzLoric. Your appeal alone will not stay the effectiveness of this permit. Stay requests must be submitted in accordance with RCW 43.21B.320. These procedures are consistent with chapter 43.21B RCW.

This notice is provided by the Washington Department of Ecology, Water Quality Program, P.O. Box 47600, Olympia, WA 98504-7600. Contact: Phil KauzLoric, phone 407-6413, e-mail pkau461@ecy.wa.gov.

**WSR 00-05-070**

**NOTICE OF PUBLIC MEETINGS  
ENERGY FACILITY SITE  
EVALUATION COUNCIL**

[Memorandum—February 14, 2000]

Please republish the year 2000 meeting schedule for the Washington State Energy Facility Site Evaluation Council (council or EFSEC) in the state register. The reference on the schedule to the Executive Committee meeting starting time has changed from 1:30 p.m. to 1:00 p.m.

**WASHINGTON STATE  
ENERGY FACILITY SITE EVALUATION COUNCIL  
(EFSEC)  
2000 MEETING SCHEDULE**

January	February	March	April
3 Executive	7 Executive	6 Executive	3 Executive
10 Council	14 Council	13 Council*	10 Council
18 Executive	22 Executive	20 Executive	17 Executive
May	June	July	August
1 Executive	5 Executive	3 Executive	7 Executive
8 Council	12 Council	10 Council	14 Council
15 Executive	19 Executive	17 Executive	21 Executive
September	October	November	December
5 Executive	2 Executive	6 Executive	4 Executive
11 Council	9 Council	13 Council	11 Council*
18 Executive	16 Executive	20 Executive	18 Executive

**Council Meetings**

**1:30 p.m.**

**\*The March and December meetings will be at:**

WSU Building - Conference Room 308  
925 Plum Street, Building 4  
Olympia, WA

**All other meetings will be at:**

Rowe Six Conference Center - Building 1  
4224 6th Avenue S.E.  
Lacey, WA

**Executive Committee Meetings**

**1:00 p.m.**

WSU Building, Conference Room 308  
925 Plum Street, Building 4

EFSEC Mailing Address  
P.O. Box 43172

Olympia, WA 98504-3172  
phone (360) 956-2121  
fax (360) 956-2158

**WSR 00-05-071**

**NOTICE OF PUBLIC MEETINGS  
PUBLIC EMPLOYEES BENEFITS BOARD**

[Memorandum—February 11, 2000]

Please publish the following revised 2000 Public Employees Benefits Board (PEBB) meeting information in the Washington State Register.

Please contact (360) 923-2802, if you have any questions or need further information.

**Public Employees Benefits Board  
REVISED Year 2000 Meeting Schedule**

If you are a person with a disability and need a special accommodation, please contact Judy Lamm at (360) 923-2828.

January 11, 1:15 p.m.

Cavanaugh's Hotel  
Olympia, Washington

February 22, 1:00 p.m.

Lacey Community Center  
Lacey, Washington

March 28, 1:00 p.m.

Lacey Community Center  
Lacey, Washington

April 18, 1:00 p.m.

Lacey Community Center  
Lacey, Washington

May 23, 1:00 p.m.

Lacey Community Center  
Lacey, Washington

June 27, 1:00 p.m.

Lacey Community Center  
Lacey, Washington

July 18, 1:00 p.m.

Lacey Community Center  
Lacey, Washington

August 1 (tentative), 1:00 p.m.

Lacey Community Center  
Lacey, Washington

August 7, (tentative), 1:00 p.m.

Lacey Community Center  
Lacey, Washington

MISC.

October 25, 8:00 a.m.  
 Planning Session  
 Seattle, Washington  
 November 28, 1:00 p.m.  
 Location Unknown  
 Olympia, Washington

October 2	Spokane School District Board Room 101 A, B and C 200 North Bernard Spokane, WA 99201-0282	To be determined
November 6	SeaTac Area*	To be determined
December 4	SeaTac Area*	To be determined

\* Location to be determined. For more information, please contact the Academic Achievement and Accountability Commission at (360) 586-9284.

**WSR 00-05-072**

**NOTICE OF PUBLIC MEETINGS**

**ACADEMIC ACHIEVEMENT AND  
 ACCOUNTABILITY COMMISSION**

[Memorandum—February 11, 2000]

In accordance with RCW 42.30.075, following is a schedule of regular meetings of the Washington State Academic Achievement and Accountability Commission for calendar year 2000.

If you have questions or need additional information, please contact (360) 586-9429 or via e-mail at [bbutts@ospi.wednet.edu](mailto:bbutts@ospi.wednet.edu).

Academic Achievement and Accountability Commission

**2000 Meeting Dates**

**Note:** All meetings begin at 9:00 a.m. and are scheduled to adjourn at 3:30 p.m., unless noted.

<b>Date</b>	<b>Location</b>	<b>Proposed Main Topic</b>
January 6	SeaTac Radisson Hotel 17001 Pacific Highway South Seattle, WA 98188	Information and reporting
February 7	Olympia School District Board Room 1113 Legion Way S.E. Olympia, WA 98501	Assistance for schools/districts
March 6	Tacoma School District Auditorium Central Admin. Office Building 601 South 8th Tacoma, WA 98401	Assistance/intervention strategies
April 10	SeaTac Occupational Skills Center Yormark Room 18010 8th Avenue South Seattle, WA 98148	Assistance/intervention strategies
May 1	SeaTac Criminal Justice Training Center 19010 1st Avenue South Seattle, WA 98148	Preliminary recommendation options
June 5	SeaTac Area*	Decide on preliminary recommendations
August 14	SeaTac Area*	Decide on recommendations to the Legislature

**WSR 00-05-106  
 NOTICE OF PUBLIC MEETINGS  
 FOREST PRACTICES BOARD**

[Memorandum—February 16, 2000]

**NOTICE OF RESCHEDULED MEETING**

The Forest Practices Board has rescheduled its regular quarterly meeting from February 9, 2000, to March 22, 2000. The meeting will take place in the Natural Resources Building, 1111 Washington Street S.E., Olympia, at 9 a.m.

The agenda will be mailed to interested parties by March 15, 2000. The agenda will also be posted on the board's website, [www.wa.gov/dnr](http://www.wa.gov/dnr), click on "regulation." See the website also for the board's rule adoption schedule which lists future board meetings and public hearings. This is a tentative schedule and is subject to change. For more information, call (360) 902-1413.

MISC.



**Table of WAC Sections Affected**

**KEY TO TABLE**

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

**Symbols:**

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJECT = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind of existing section
- REVIEW = Review of previously adopted rule
- SUSP = Suspending an existing section

**Suffixes:**

- C = Continuance of previous proposal
- E = Emergency action
- P = Proposed action
- S = Supplemental notice
- W = Withdrawal of proposed action
- XA = Expedited adoption
- XR = Expedited repeal
- No suffix means permanent action

**WAC #** Shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

**WSR #** Shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
4-25-510	PREP	00-03-032	16-213-200	AMD-P	00-05-048	16-483-050	AMD	00-05-105
4-25-830	PREP	00-03-033	16-213-220	REP-P	00-05-048	16-483-060	REP	00-05-105
16-70-001	REP-P	00-03-070	16-213-230	REP-P	00-05-048	16-536-040	AMD-P	00-05-089
16-70-005	AMD-P	00-03-070	16-213-240	REP-P	00-05-048	16-550-020	AMD-XA	00-05-090
16-70-010	AMD-P	00-03-070	16-213-250	REP-P	00-05-048	16-555-020	AMD-XA	00-05-091
16-70-030	REP-P	00-03-070	16-213-260	AMD-P	00-05-048	16-565-020	AMD-XA	00-05-092
16-74-001	REP-P	00-03-069	16-213-270	AMD-P	00-05-048	82-50-021	AMD-XA	00-05-016
16-74-005	NEW-P	00-03-069	16-228-1010	PREP	00-03-080	112-10-010	AMD	00-05-036
16-74-010	AMD-P	00-03-069	16-228-1040	PREP	00-03-080	112-10-020	AMD	00-05-036
16-74-020	AMD-P	00-03-069	16-228-1150	PREP	00-03-080	112-10-030	AMD	00-05-036
16-74-030	AMD-P	00-03-069	16-228-1200	PREP	00-03-080	112-10-040	AMD	00-05-036
16-74-040	REP-P	00-03-069	16-228-1220	PREP	00-03-077	112-10-050	AMD	00-05-036
16-80-005	AMD-P	00-03-068	16-228-1230	PREP	00-03-080	112-10-060	AMD	00-05-036
16-80-007	AMD-P	00-03-068	16-228-1240	PREP	00-03-077	112-10-070	NEW	00-05-036
16-80-010	AMD-P	00-03-068	16-228-1250	PREP	00-03-077	112-10-080	NEW	00-05-036
16-80-015	AMD-P	00-03-068	16-228-1270	PREP	00-03-080	118-03-330	REP	00-05-012
16-80-020	AMD-P	00-03-068	16-228-1300	PREP	00-03-077	118-06-010	REP	00-05-011
16-80-025	AMD-P	00-03-068	16-228-1320	PREP	00-03-077	118-06-020	REP	00-05-011
16-80-030	AMD-P	00-03-068	16-228-1380	PREP	00-03-080	118-06-030	REP	00-05-011
16-80-035	AMD-P	00-03-068	16-228-1385	PREP	00-03-080	118-06-040	REP	00-05-011
16-80-040	AMD-P	00-03-068	16-228-1400	PREP	00-03-078	118-06-050	REP	00-05-011
16-80-045	AMD-P	00-03-068	16-228-1500	PREP	00-03-079	118-06-060	REP	00-05-011
16-80-047	AMD-P	00-03-068	16-228-1520	PREP	00-03-079	118-06-070	REP	00-05-011
16-80-050	REP-P	00-03-068	16-228-1540	PREP	00-03-080	118-06-080	REP	00-05-011
16-101	PREP	00-02-077	16-228-1545	PREP	00-03-079	118-07-010	REP	00-05-011
16-112-001	REP	00-05-024	16-228-1580	PREP	00-03-080	118-07-020	REP	00-05-011
16-112-010	REP	00-05-024	16-228-2000	PREP	00-03-077	118-07-030	REP	00-05-011
16-112-020	REP	00-05-024	16-230	PREP	00-04-020	118-07-040	REP	00-05-011
16-112-030	REP	00-05-024	16-230	PREP	00-04-021	118-07-050	REP	00-05-011
16-147-010	AMD	00-05-025	16-230	PREP	00-04-022	118-07-060	REP	00-05-011
16-147-020	AMD	00-05-025	16-404	PREP	00-03-083	118-08-010	REP	00-05-011
16-147-030	AMD	00-05-025	16-409	PREP	00-03-085	118-08-020	REP	00-05-011
16-200-695	PREP	00-03-076	16-445	PREP	00-03-084	118-08-030	REP	00-05-011
16-202-1000	PREP	00-03-076	16-483	AMD-C	00-04-066	118-08-040	REP	00-05-011
16-202-2000	PREP	00-03-076	16-483-001	AMD	00-05-105	118-08-050	REP	00-05-011
16-213-010	REP-P	00-05-048	16-483-005	AMD	00-05-105	118-08-060	REP	00-05-011
16-213-100	REP-P	00-05-048	16-483-010	AMD	00-05-105	118-08-070	REP	00-05-011
16-213-110	REP-P	00-05-048	16-483-020	AMD	00-05-105	132E-120	PREP	00-02-082
16-213-120	REP-P	00-05-048	16-483-030	AMD	00-05-105	132G-276-010	AMD-P	00-02-074
16-213-130	REP-P	00-05-048	16-483-040	AMD	00-05-105	132G-276-020	AMD-P	00-02-074

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
132G-276-030	REP-P	00-02-074	132X- 60-050	AMD	00-05-023	139- 01	PREP	00-04-048
132G-276-040	REP-P	00-02-074	132X- 60-060	AMD	00-05-023	139- 05	PREP	00-04-048
132G-276-050	AMD-P	00-02-074	132X- 60-065	NEW	00-05-023	139- 10	PREP	00-04-048
132G-276-060	AMD-P	00-02-074	132X- 60-075	NEW	00-05-023	139- 25	PREP	00-04-048
132G-276-080	AMD-P	00-02-074	132X- 60-080	AMD	00-05-023	173- 98-030	AMD-XA	00-04-085
132G-276-090	AMD-P	00-02-074	132X- 60-090	AMD	00-05-023	173-181	PREP	00-05-096
132G-276-100	AMD-P	00-02-074	132X- 60-100	AMD	00-05-023	173-303-010	AMD-P	00-02-081
132G-276-110	AMD-P	00-02-074	132X- 60-110	AMD	00-05-023	173-303-016	AMD-P	00-02-081
132G-276-120	AMD-P	00-02-074	132X- 60-120	AMD	00-05-023	173-303-040	AMD-P	00-02-081
132G-276-130	AMD-P	00-02-074	132X- 60-130	AMD	00-05-023	173-303-045	AMD-P	00-02-081
132G-276-900	AMD-P	00-02-074	132X- 60-140	AMD	00-05-023	173-303-060	AMD-P	00-02-081
132X- 10-010	AMD	00-05-023	132X- 60-150	AMD	00-05-023	173-303-070	AMD-P	00-02-081
132X- 10-030	AMD	00-05-023	132X- 60-160	AMD	00-05-023	173-303-071	AMD-P	00-02-081
132X- 10-050	AMD	00-05-023	132X- 60-170	AMD	00-05-023	173-303-073	AMD-P	00-02-081
132X- 10-060	AMD	00-05-023	132X- 60-178	NEW	00-05-023	173-303-077	AMD-P	00-02-081
132X- 10-080	AMD	00-05-023	132X- 60-180	AMD	00-05-023	173-303-100	AMD-P	00-02-081
132X- 10-100	AMD	00-05-023	136-167-020	AMD	00-05-043	173-303-110	AMD-P	00-02-081
132X- 10-110	AMD	00-05-023	136-167-030	AMD	00-05-043	173-303-120	AMD-P	00-02-081
132X- 20-010	REP	00-05-022	137- 28	PREP	00-02-070	173-303-160	AMD-P	00-02-081
132X- 20-020	REP	00-05-022	137-125-005	NEW-E	00-05-044	173-303-170	AMD-P	00-02-081
132X- 20-030	REP	00-05-022	137-125-010	NEW-E	00-05-044	173-303-180	AMD-P	00-02-081
132X- 20-040	REP	00-05-022	137-125-015	NEW-E	00-05-044	173-303-190	AMD-P	00-02-081
132X- 20-050	REP	00-05-022	137-125-040	NEW-E	00-05-044	173-303-200	AMD-P	00-02-081
132X- 20-060	REP	00-05-022	137-125-042	NEW-E	00-05-044	173-303-201	AMD-P	00-02-081
132X- 20-070	REP	00-05-022	137-125-044	NEW-E	00-05-044	173-303-240	AMD-P	00-02-081
132X- 20-080	REP	00-05-022	137-125-046	NEW-E	00-05-044	173-303-280	AMD-P	00-02-081
132X- 20-090	REP	00-05-022	137-125-048	NEW-E	00-05-044	173-303-281	AMD-P	00-02-081
132X- 20-100	REP	00-05-022	137-125-052	NEW-E	00-05-044	173-303-300	AMD-P	00-02-081
132X- 20-110	REP	00-05-022	137-125-054	NEW-E	00-05-044	173-303-320	AMD-P	00-02-081
132X- 20-120	REP	00-05-022	137-125-060	NEW-E	00-05-044	173-303-360	AMD-P	00-02-081
132X- 20-130	REP	00-05-022	137-125-070	NEW-E	00-05-044	173-303-370	AMD-P	00-02-081
132X- 30-040	AMD	00-05-023	137-125-072	NEW-E	00-05-044	173-303-380	AMD-P	00-02-081
132X- 40-020	AMD	00-05-023	137-125-076	NEW-E	00-05-044	173-303-390	AMD-P	00-02-081
132X- 50-020	AMD	00-05-023	137-125-078	NEW-E	00-05-044	173-303-400	AMD-P	00-02-081
132X- 50-030	AMD	00-05-023	137-125-090	NEW-E	00-05-044	173-303-505	AMD-P	00-02-081
132X- 50-040	AMD	00-05-023	137-125-095	NEW-E	00-05-044	173-303-510	AMD-P	00-02-081
132X- 50-050	AMD	00-05-023	137-125-100	NEW-E	00-05-044	173-303-515	AMD-P	00-02-081
132X- 50-060	AMD	00-05-023	137-125-105	NEW-E	00-05-044	173-303-520	AMD-P	00-02-081
132X- 50-080	AMD	00-05-023	137-125-110	NEW-E	00-05-044	173-303-522	AMD-P	00-02-081
132X- 50-110	AMD	00-05-023	137-125-115	NEW-E	00-05-044	173-303-573	AMD-P	00-02-081
132X- 50-120	AMD	00-05-023	137-125-120	NEW-E	00-05-044	173-303-578	NEW-P	00-02-081
132X- 50-130	AMD	00-05-023	137-125-125	NEW-E	00-05-044	173-303-600	AMD-P	00-02-081
132X- 50-140	AMD	00-05-023	137-125-130	NEW-E	00-05-044	173-303-610	AMD-P	00-02-081
132X- 50-150	AMD	00-05-023	137-125-135	NEW-E	00-05-044	173-303-620	AMD-P	00-02-081
132X- 50-160	AMD	00-05-023	137-125-140	NEW-E	00-05-044	173-303-630	AMD-P	00-02-081
132X- 50-170	AMD	00-05-023	137-125-195	NEW-E	00-05-044	173-303-640	AMD-P	00-02-081
132X- 50-180	AMD	00-05-023	137-130-005	NEW-E	00-05-045	173-303-645	AMD-P	00-02-081
132X- 50-190	AMD	00-05-023	137-130-010	NEW-E	00-05-045	173-303-646	AMD-P	00-02-081
132X- 50-210	AMD	00-05-023	137-130-020	NEW-E	00-05-045	173-303-650	AMD-P	00-02-081
132X- 50-230	AMD	00-05-023	137-130-030	NEW-E	00-05-045	173-303-680	AMD-P	00-02-081
132X- 50-240	AMD	00-05-023	137-130-040	NEW-E	00-05-045	173-303-690	AMD-P	00-02-081
132X- 50-260	AMD	00-05-023	137-130-050	NEW-E	00-05-045	173-303-691	AMD-P	00-02-081
132X- 50-270	AMD	00-05-023	137-130-060	NEW-E	00-05-045	173-303-692	NEW-P	00-02-081
132X- 50-280	AMD	00-05-023	137-130-070	NEW-E	00-05-045	173-303-693	NEW-P	00-02-081
132X- 60-010	AMD	00-05-023	137-130-080	NEW-E	00-05-045	173-303-800	AMD-P	00-02-081
132X- 60-015	NEW	00-05-023	137-130-090	NEW-E	00-05-045	173-303-803	NEW-P	00-02-081
132X- 60-020	AMD	00-05-023	137-130-100	NEW-E	00-05-045	173-303-804	AMD-P	00-02-081
132X- 60-035	NEW	00-05-023	137-130-110	NEW-E	00-05-045	173-303-805	AMD-P	00-02-081
132X- 60-037	NEW	00-05-023	137-130-120	NEW-E	00-05-045	173-303-806	AMD-P	00-02-081
132X- 60-040	AMD	00-05-023	137-130-130	NEW-E	00-05-045	173-303-807	AMD-P	00-02-081
132X- 60-045	NEW	00-05-023	137-130-140	NEW-E	00-05-045	173-303-810	AMD-P	00-02-081
132X- 60-046	NEW	00-05-023	137-130-150	NEW-E	00-05-045	173-303-830	AMD-P	00-02-081

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
173-303-840	AMD-P	00-02-081	192-300-050	NEW	00-05-068	230- 04-119	AMD	00-05-102
173-303-9904	AMD-P	00-02-081	192-300-170	NEW	00-05-064	230- 04-140	AMD-P	00-05-101
173-303-9907	AMD-P	00-02-081	192-300-190	NEW	00-05-067	230- 04-142	REP-P	00-05-101
180- 27-032	AMD	00-04-007	192-320-050	NEW	00-05-068	230- 04-203	AMD-P	00-05-101
180- 27-102	AMD-P	00-05-104	192-320-070	NEW	00-05-069	230- 04-204	AMD-P	00-05-101
180- 29-068	NEW	00-04-008	192-330-100	NEW	00-05-066	230- 04-207	NEW-P	00-05-101
180- 51-063	NEW	00-04-047	192-340-010	NEW	00-05-065	230- 04-255	AMD-P	00-05-101
180- 51-064	NEW	00-04-047	196- 31-010	NEW-P	00-04-059	230- 04-450	AMD-P	00-05-101
180- 51-075	AMD	00-05-010	196- 31-020	NEW-P	00-04-059	230- 08-027	NEW-P	00-05-101
180- 52-041	NEW	00-03-046	196- 31-030	NEW-P	00-04-059	230- 08-040	AMD-P	00-05-101
180- 78A-010	AMD	00-03-049	196- 31-040	NEW-P	00-04-059	230- 08-080	AMD-P	00-04-099
180- 78A-100	AMD-P	00-05-082	196- 31-050	NEW-P	00-04-059	230- 08-090	AMD-P	00-05-101
180- 78A-209	AMD-P	00-05-079	196- 31-060	NEW-P	00-04-059	230- 08-100	REP-P	00-04-099
180- 78A-500	PREP	00-05-078	196- 31-070	NEW-P	00-04-059	230- 08-105	AMD-P	00-04-099
180- 78A-505	AMD	00-03-049	204- 24-050	AMD	00-03-081	230- 08-160	AMD-P	00-05-101
180- 78A-510	AMD	00-03-049	204- 38-030	AMD	00-03-023	230- 12-050	AMD-P	00-04-099
180- 78A-515	AMD	00-03-049	204- 38-040	AMD	00-03-023	230- 12-050	AMD-P	00-05-101
180- 78A-520	AMD	00-03-049	204- 38-050	AMD	00-03-023	230- 12-072	NEW-P	00-05-101
180- 78A-525	AMD	00-03-049	208-440	PREP	00-04-074	230- 12-073	NEW-P	00-05-101
180- 78A-530	AMD	00-03-049	208-440-010	PREP	00-04-074	230- 12-078	AMD-P	00-04-099
180- 78A-535	AMD	00-03-049	208-440-020	PREP	00-04-074	230- 12-310	AMD-P	00-05-103
180- 78A-540	AMD	00-03-049	208-440-040	PREP	00-04-074	230- 20-110	REP-P	00-04-099
180- 79A-006	AMD	00-03-048	208-440-050	PREP	00-04-074	230- 20-120	REP-P	00-04-099
180- 79A-007	AMD	00-03-048	210- 01-120	AMD-P	00-03-040	230- 20-220	AMD-P	00-04-099
180- 79A-123	AMD-P	00-05-080	220- 32-05100R	NEW-E	00-04-071	230- 20-243	AMD-P	00-04-099
180- 79A-130	AMD	00-03-048	220- 32-05100R	REP-E	00-04-071	230- 20-244	AMD-P	00-04-099
180- 79A-140	PREP	00-05-076	220- 33-01000B	NEW-E	00-05-047	230- 40-010	AMD-P	00-05-101
180- 79A-145	AMD	00-03-048	220- 33-01000B	REP-E	00-05-047	230- 40-015	REP-P	00-05-101
180- 79A-206	AMD	00-03-048	220- 44-05000A	NEW-E	00-04-041	230- 40-030	AMD-P	00-05-101
180- 79A-231	PREP	00-05-076	220- 44-05000Z	REP-E	00-04-041	230- 40-040	NEW-P	00-05-101
180- 79A-250	AMD	00-03-048	220- 52-04000Q	REP-E	00-04-084	230- 40-050	AMD-P	00-05-101
180- 79A-257	AMD	00-03-048	220- 52-04000R	NEW-E	00-04-084	230- 40-060	REP-P	00-05-101
180- 79A-260	AMD	00-03-050	220- 52-04600U	NEW-E	00-04-084	230- 40-070	AMD-P	00-05-101
180- 82-204	AMD-P	00-05-083	220- 52-04600V	REP-E	00-04-084	230- 40-120	AMD-P	00-05-101
180- 82-311	NEW-P	00-05-083	220- 52-06900A	NEW-E	00-04-015	230- 40-125	REP-P	00-05-101
180- 82-313	NEW-P	00-05-083	220- 52-071	AMD	00-03-042	230- 40-130	AMD-P	00-05-101
180- 82-335	NEW-P	00-05-083	220- 52-073	AMD	00-03-042	230- 40-150	REP-P	00-05-101
180- 82-340	NEW-P	00-05-083	220- 52-07300Q	REP-E	00-03-006	230- 40-160	REP-P	00-05-101
180- 82-341	NEW-P	00-05-083	220- 52-07300R	NEW-E	00-03-006	230- 40-200	AMD-P	00-05-101
180- 82-342	AMD-P	00-05-083	220- 52-07300R	REP-E	00-03-006	230- 40-225	AMD-P	00-05-101
180- 82-343	AMD-P	00-05-083	220- 52-07300R	REP-E	00-03-044	230- 40-400	AMD-P	00-05-101
180- 85-030	PREP	00-05-077	220- 52-07300S	NEW-E	00-03-044	230- 40-550	NEW-P	00-05-101
192- 12-025	REP	00-05-064	220- 52-07300S	REP-E	00-03-044	230- 40-552	NEW-P	00-05-101
192- 12-072	REP	00-05-068	220- 52-07300S	REP-E	00-04-013	230- 40-554	NEW-P	00-05-101
192- 12-405	REP	00-05-069	220- 52-07300T	NEW-E	00-04-013	230- 40-556	NEW-P	00-05-101
192- 16-017	REP-E	00-05-063	220- 52-07300T	REP-E	00-05-041	230- 40-558	NEW-P	00-05-101
192-150-005	NEW-E	00-05-063	220- 52-07300U	NEW-E	00-05-041	230- 40-560	NEW-P	00-05-101
192-150-085	NEW-E	00-05-063	220- 52-075	AMD	00-05-054	230- 40-562	NEW-P	00-05-101
192-270-005	NEW-E	00-05-063	220- 57-34500A	NEW-E	00-03-007	230- 40-600	NEW-P	00-05-101
192-270-010	NEW-E	00-05-063	220- 57-34500A	REP-E	00-03-007	230- 40-610	NEW-P	00-05-101
192-270-015	NEW-E	00-05-063	230- 02-108	AMD-P	00-04-099	230- 40-615	NEW-P	00-05-101
192-270-020	NEW-E	00-05-063	230- 02-109	NEW-P	00-05-101	230- 40-800	NEW-P	00-05-101
192-270-025	NEW-E	00-05-063	230- 02-110	AMD-P	00-05-101	230- 40-803	NEW-P	00-05-101
192-270-030	NEW-E	00-05-063	230- 02-123	AMD-P	00-04-099	230- 40-805	NEW-P	00-05-101
192-270-035	NEW-E	00-05-063	230- 02-183	AMD-P	00-04-099	230- 40-810	NEW-P	00-05-101
192-270-040	NEW-E	00-05-063	230- 02-205	AMD	00-05-102	230- 40-815	NEW-P	00-05-101
192-270-045	NEW-E	00-05-063	230- 02-206	AMD	00-05-102	230- 40-820	NEW-P	00-05-101
192-270-050	NEW-E	00-05-063	230- 02-380	AMD-W	00-02-067	230- 40-823	NEW-P	00-05-101
192-270-055	NEW-E	00-05-063	230- 02-400	REP-P	00-05-101	230- 40-825	NEW-P	00-05-101
192-270-060	NEW-E	00-05-063	230- 02-415	AMD-P	00-05-101	230- 40-830	NEW-P	00-05-101
192-270-065	NEW-E	00-05-063	230- 02-425	REP-P	00-05-101	230- 40-833	NEW-P	00-05-101
192-270-070	NEW-E	00-05-063	230- 04-022	AMD-P	00-05-101	230- 40-835	NEW-P	00-05-101

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
230-40-840	NEW-P	00-05-101	246-243-042	NEW-P	00-04-088	246-780-060	AMD-P	00-03-074
230-40-845	NEW-P	00-05-101	246-243-044	NEW-P	00-04-088	246-780-070	REP-P	00-03-074
230-40-850	NEW-P	00-05-101	246-243-047	NEW-P	00-04-088	246-808-700	REP-XR	00-04-087
230-40-855	NEW-P	00-05-101	246-243-050	AMD-P	00-04-088	246-810-600	NEW	00-03-075A
230-40-860	NEW-P	00-05-101	246-243-060	AMD-P	00-04-088	246-810-610	NEW	00-03-075A
230-40-865	NEW-P	00-05-101	246-243-080	AMD-P	00-04-088	246-810-620	NEW	00-03-075A
230-40-870	NEW-P	00-05-101	246-243-090	AMD-P	00-04-088	246-810-630	NEW	00-03-075A
230-40-875	NEW-P	00-05-101	246-243-100	AMD-P	00-04-088	246-810-640	NEW	00-03-075A
230-40-880	NEW-P	00-05-101	246-243-110	AMD-P	00-04-088	246-810-650	NEW	00-03-075A
230-40-885	NEW-P	00-05-101	246-243-120	AMD-P	00-04-088	246-810-660	NEW	00-03-075A
230-40-890	NEW-P	00-05-101	246-243-130	AMD-P	00-04-088	246-841-400	PREP	00-03-072
230-40-895	NEW-P	00-05-101	246-243-140	AMD-P	00-04-088	246-841-410	PREP	00-03-072
230-40-897	NEW-P	00-05-101	246-243-141	NEW-P	00-04-088	246-841-420	PREP	00-03-072
230-40-900	REP-P	00-05-101	246-243-150	AMD-P	00-04-088	246-841-430	PREP	00-03-072
230-50-010	AMD-P	00-05-101	246-243-160	AMD-P	00-04-088	246-841-440	PREP	00-03-072
232-12-011	AMD	00-04-017	246-243-170	AMD-P	00-04-088	246-841-450	PREP	00-03-072
232-12-014	AMD	00-04-017	246-243-180	AMD-P	00-04-088	246-841-460	PREP	00-03-072
232-12-257	AMD-W	00-02-066	246-243-190	AMD-P	00-04-088	246-841-470	PREP	00-03-072
232-12-31500G	NEW-E	00-04-014	246-243-195	AMD-P	00-04-088	246-841-480	PREP	00-03-072
232-28-02201	AMD	00-04-017	246-243-200	AMD-P	00-04-088	246-841-490	PREP	00-03-072
232-28-02202	AMD	00-04-017	246-243-203	NEW-P	00-04-088	246-841-500	PREP	00-03-072
232-28-02203	AMD	00-04-017	246-243-210	REP-P	00-04-088	246-841-510	PREP	00-03-072
232-28-02204	AMD	00-04-017	246-243-220	AMD-P	00-04-088	246-976-001	AMD-P	00-03-075
232-28-02205	AMD	00-04-017	246-243-230	AMD-P	00-04-088	246-976-010	AMD-P	00-03-075
232-28-02206	AMD	00-04-017	246-243-250	NEW-P	00-04-088	246-976-020	REP-P	00-03-075
232-28-02220	AMD	00-04-017	246-252-001	AMD-P	00-04-088	246-976-021	NEW-P	00-03-075
232-28-02240	AMD	00-04-017	246-252-030	AMD-P	00-04-088	246-976-025	REP-P	00-03-075
232-28-24102	REP	00-04-017	246-254-150	AMD-P	00-04-088	246-976-030	REP-P	00-03-075
232-28-255	REP	00-04-017	246-323	PREP	00-05-097	246-976-031	NEW-P	00-03-075
232-28-26000A	NEW-E	00-03-025	246-325	PREP	00-05-097	246-976-035	REP-P	00-03-075
232-28-261	REP	00-04-017	246-326	PREP	00-05-097	246-976-040	REP-P	00-03-075
232-28-262	REP	00-04-017	246-338-001	AMD-P	00-03-073	246-976-041	NEW-P	00-03-075
232-28-263	REP	00-04-017	246-338-010	AMD-P	00-03-073	246-976-045	REP-P	00-03-075
232-28-269	REP	00-04-017	246-338-020	AMD-P	00-03-073	246-976-050	REP-P	00-03-075
232-28-270	REP	00-04-017	246-338-022	NEW-P	00-03-073	246-976-055	REP-P	00-03-075
232-28-271	AMD	00-04-017	246-338-024	NEW-P	00-03-073	246-976-060	REP-P	00-03-075
232-28-275	AMD	00-04-017	246-338-026	NEW-P	00-03-073	246-976-065	REP-P	00-03-075
232-28-277	NEW	00-04-017	246-338-028	NEW-P	00-03-073	246-976-070	REP-P	00-03-075
232-28-61900D	NEW-E	00-03-041	246-338-030	REP-P	00-03-073	246-976-075	REP-P	00-03-075
232-28-61900D	REP-E	00-03-041	246-338-040	AMD-P	00-03-073	246-976-076	REP-P	00-03-075
232-28-61900D	REP-E	00-03-055	246-338-050	AMD-P	00-03-073	246-976-077	REP-P	00-03-075
232-28-61900E	NEW-E	00-03-055	246-338-060	AMD-P	00-03-073	246-976-080	REP-P	00-03-075
232-28-61900E	REP-E	00-03-055	246-338-070	AMD-P	00-03-073	246-976-085	REP-P	00-03-075
232-28-61900E	REP-E	00-05-085	246-338-080	AMD-P	00-03-073	246-976-110	REP-P	00-03-075
232-28-61900F	NEW-E	00-05-085	246-338-090	AMD-P	00-03-073	246-976-120	REP-P	00-03-075
232-28-61900F	REP-E	00-05-085	246-338-100	AMD-P	00-03-073	246-976-140	REP-P	00-03-075
242-02-052	AMD-P	00-05-021	246-338-110	AMD-P	00-03-073	246-976-141	NEW-P	00-03-075
242-02-255	NEW-P	00-05-021	246-490-010	NEW-P	00-05-098	246-976-150	REP-P	00-03-075
242-02-522	AMD-P	00-05-021	246-490-020	NEW-P	00-05-098	246-976-151	NEW-P	00-03-075
242-02-832	AMD-P	00-05-021	246-490-030	NEW-P	00-05-098	246-976-160	REP-P	00-03-075
242-02-834	AMD-P	00-05-021	246-490-055	NEW-P	00-05-098	246-976-161	NEW-P	00-03-075
242-04-030	AMD-P	00-05-021	246-490-065	NEW-P	00-05-098	246-976-165	REP-P	00-03-075
242-04-050	AMD-P	00-05-021	246-490-070	NEW-P	00-05-098	246-976-170	REP-P	00-03-075
246-220-007	AMD-P	00-04-088	246-780-001	AMD-P	00-03-074	246-976-171	NEW-P	00-03-075
246-220-010	AMD-P	00-04-088	246-780-010	AMD-P	00-03-074	246-976-180	REP-P	00-03-075
246-221-020	AMD-P	00-04-088	246-780-020	AMD-P	00-03-074	246-976-181	REP-P	00-03-075
246-235-080	AMD-P	00-04-088	246-780-022	NEW-P	00-03-074	246-976-182	NEW-P	00-03-075
246-235-084	NEW-P	00-04-088	246-780-025	NEW-P	00-03-074	246-976-190	REP-P	00-03-075
246-235-086	NEW-P	00-04-088	246-780-028	NEW-P	00-03-074	246-976-191	NEW-P	00-03-075
246-235-090	AMD-P	00-04-088	246-780-030	AMD-P	00-03-074	246-976-200	REP-P	00-03-075
246-243-020	AMD-P	00-04-088	246-780-040	AMD-P	00-03-074	246-976-210	REP-P	00-03-075
246-243-030	AMD-P	00-04-088	246-780-050	REP-P	00-03-074	246-976-220	REP-P	00-03-075



Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
246-976-230	REP-P	00-03-075	284- 43-710	AMD	00-04-034	296- 62-05105	NEW-C	00-04-075
246-976-240	REP-P	00-03-075	284- 43-720	AMD	00-04-034	296- 62-05110	NEW-C	00-04-075
246-976-260	AMD-P	00-03-075	284- 74-300	NEW-P	00-04-090	296- 62-05120	NEW-C	00-04-075
246-976-270	AMD-P	00-03-075	284- 74-310	NEW-P	00-04-090	296- 62-05122	NEW-C	00-04-075
246-976-280	REP-P	00-03-075	284- 74-320	NEW-P	00-04-090	296- 62-05130	NEW-C	00-04-075
246-976-290	AMD-P	00-03-075	284- 74-330	NEW-P	00-04-090	296- 62-05140	NEW-C	00-04-075
246-976-300	AMD-P	00-03-075	284- 74-340	NEW-P	00-04-090	296- 62-05150	NEW-C	00-04-075
246-976-310	AMD-P	00-03-075	284- 74-350	NEW-P	00-04-090	296- 62-05160	NEW-C	00-04-075
246-976-320	AMD-P	00-03-075	284- 74-360	NEW-P	00-04-090	296- 62-05170	NEW-C	00-04-075
246-976-330	AMD-P	00-03-075	284- 74-370	NEW-P	00-04-090	296- 62-05172	NEW-C	00-04-075
246-976-340	AMD-P	00-03-075	284- 74-380	NEW-P	00-04-090	296- 62-05174	NEW-C	00-04-075
246-976-350	REP-P	00-03-075	286- 40-020	AMD	00-05-008	296- 62-05176	NEW-C	00-04-075
246-976-370	REP-P	00-03-075	296- 17	PREP	00-02-090	296-155	PREP	00-04-002
246-976-390	AMD-P	00-03-075	296- 18A	PREP	00-05-002	296-155	PREP	00-05-057
246-976-400	AMD-P	00-03-075	296- 20-022	AMD-P	00-05-111	296-350	AMD-P	00-05-058
246-976-420	AMD-P	00-03-075	296- 20-12401	NEW-P	00-05-111	296-350-010	AMD-P	00-05-058
246-976-430	AMD-P	00-03-075	296- 20-135	AMD-P	00-05-112	296-350-020	REP-P	00-05-058
246-976-440	REP-P	00-03-075	296- 21-290	AMD-P	00-05-111	296-350-030	REP-P	00-05-058
246-976-450	REP-P	00-03-075	296- 23-220	AMD-P	00-05-112	296-350-040	REP-P	00-05-058
246-976-890	AMD-P	00-03-075	296- 23-230	AMD-P	00-05-112	296-350-050	REP-P	00-05-058
246-976-910	AMD-P	00-03-075	296- 23A-0230	AMD-P	00-05-111	296-350-060	REP-P	00-05-058
246-976-920	AMD-P	00-03-075	296- 24	PREP	00-05-057	296-350-070	REP-P	00-05-058
246-976-930	AMD-P	00-03-075	296- 27-150	REP-P	00-05-058	296-350-080	REP-P	00-05-058
246-976-940	AMD-P	00-03-075	296- 27-160	REP-P	00-05-058	296-350-090	REP-P	00-05-058
246-976-950	AMD-P	00-03-075	296- 27-16001	REP-P	00-05-058	296-350-095	REP-P	00-05-058
246-976-960	AMD-P	00-03-075	296- 27-16002	REP-P	00-05-058	296-350-100	NEW-P	00-05-058
246-976-970	AMD-P	00-03-075	296- 27-16003	REP-P	00-05-058	296-350-10010	NEW-P	00-05-058
246-976-990	AMD-P	00-03-075	296- 27-16004	REP-P	00-05-058	296-350-10020	NEW-P	00-05-058
250- 81-010	NEW-P	00-05-084	296- 27-16007	REP-P	00-05-058	296-350-10030	NEW-P	00-05-058
250- 81-020	NEW-P	00-05-084	296- 27-16011	REP-P	00-05-058	296-350-10040	NEW-P	00-05-058
250- 81-030	NEW-P	00-05-084	296- 27-16018	REP-P	00-05-058	296-350-10050	NEW-P	00-05-058
250- 81-040	NEW-P	00-05-084	296- 27-16020	REP-P	00-05-058	296-350-150	NEW-P	00-05-058
250- 81-050	NEW-P	00-05-084	296- 27-16022	REP-P	00-05-058	296-350-15010	NEW-P	00-05-058
250- 81-060	NEW-P	00-05-084	296- 27-16026	REP-P	00-05-058	296-350-15015	NEW-P	00-05-058
251- 01-345	AMD-P	00-04-053	296- 30-010	AMD-P	00-02-091	296-350-15020	NEW-P	00-05-058
251- 01-345	AMD-W	00-05-060	296- 30-080	AMD	00-03-056	296-350-15025	NEW-P	00-05-058
251- 08-115	AMD-P	00-04-052	296- 30-081	AMD	00-03-056	296-350-15030	NEW-P	00-05-058
251- 09-080	AMD-P	00-04-052	296- 30-085	NEW	00-03-056	296-350-15035	NEW-P	00-05-058
251- 20-020	AMD-P	00-04-053	296- 30-090	NEW	00-03-056	296-350-15040	NEW-P	00-05-058
251- 20-020	AMD-W	00-05-060	296- 30-095	NEW	00-03-056	296-350-15045	NEW-P	00-05-058
251- 20-030	AMD-P	00-04-053	296- 30-100	NEW	00-03-056	296-350-200	REP-P	00-05-058
251- 20-030	AMD-W	00-05-060	296- 30-105	NEW	00-03-056	296-350-210	REP-P	00-05-058
251- 23-040	AMD-P	00-04-052	296- 30-120	AMD	00-03-056	296-350-230	REP-P	00-05-058
260- 34-030	AMD-P	00-03-088	296- 30-130	AMD-P	00-02-091	296-350-240	REP-P	00-05-058
260- 34-080	AMD-P	00-03-088	296- 30-170	AMD	00-03-056	296-350-250	REP-P	00-05-058
260- 34-090	AMD-P	00-03-088	296- 30-180	AMD	00-03-056	296-350-255	REP-P	00-05-058
260- 34-100	AMD-P	00-03-088	296- 31-012	AMD-P	00-02-091	296-350-260	REP-P	00-05-058
260- 34-140	AMD-P	00-03-088	296- 31-020	REP-P	00-02-091	296-350-270	REP-P	00-05-058
260- 34-150	AMD-P	00-03-088	296- 31-030	AMD	00-03-056	296-350-280	REP-P	00-05-058
260- 40-100	AMD-P	00-03-089	296- 31-035	NEW	00-03-056	296-350-400	REP-P	00-05-058
260- 52-060	AMD-P	00-03-091	296- 31-045	NEW	00-03-056	296-350-450	REP-P	00-05-058
260- 70-700	AMD-P	00-03-092	296- 31-050	REP	00-03-056	296-350-460	REP-P	00-05-058
260- 75-020	NEW-P	00-03-090	296- 31-055	NEW	00-03-056	296-350-470	REP-P	00-05-058
260- 75-030	NEW-P	00-03-090	296- 31-056	NEW	00-03-056	296-350-600	NEW-P	00-05-058
260- 88-010	AMD-P	00-03-093	296- 31-057	NEW	00-03-056	296-350-60010	NEW-P	00-05-058
275- 35	PREP	00-03-028	296- 31-058	NEW	00-03-056	296-350-60015	NEW-P	00-05-058
284- 43-120	AMD	00-04-034	296- 31-070	AMD	00-03-056	296-350-60020	NEW-P	00-05-058
284- 43-125	NEW	00-04-034	296- 31-074	NEW	00-03-056	296-350-60025	NEW-P	00-05-058
284- 43-200	AMD	00-04-034	296- 31-090	REP	00-03-056	296-350-60030	NEW-P	00-05-058
284- 43-210	AMD	00-04-034	296- 62-051	NEW-C	00-04-075	296-350-60035	NEW-P	00-05-058
284- 43-220	AMD	00-04-034	296- 62-05101	NEW-C	00-04-075	296-350-60040	NEW-P	00-05-058
284- 43-250	AMD	00-04-034	296- 62-05103	NEW-C	00-04-075	296-350-60045	NEW-P	00-05-058

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-350-700	NEW-P	00-05-058	308-124H-041	AMD-P	00-03-063	315- 11A-211	REP-XR	00-02-055
296-350-70010	NEW-P	00-05-058	308-124H-042	NEW-P	00-03-063	315- 11A-212	REP-XR	00-02-055
296-350-70015	NEW-P	00-05-058	308-124H-051	AMD-P	00-03-063	315- 11A-213	REP-XR	00-02-055
296-350-70020	NEW-P	00-05-058	308-124H-061	AMD-P	00-03-063	315- 11A-214	REP-XR	00-02-055
296-350-70025	NEW-P	00-05-058	308-124H-062	AMD-P	00-03-063	317- 10	PREP	00-05-096
296-350-70030	NEW-P	00-05-058	308-124H-210	AMD-P	00-03-063	352- 32	PREP	00-04-081
296-350-70035	NEW-P	00-05-058	308-124H-220	REP-P	00-03-063	352- 32-285	PREP	00-04-081
296-350-70040	NEW-P	00-05-058	308-124H-221	NEW-P	00-03-063	356- 14-045	AMD-P	00-04-052
296-350-70045	NEW-P	00-05-058	308-124H-230	AMD-P	00-03-063	356- 26-040	AMD-P	00-04-052
296-350-70050	NEW-P	00-05-058	308-124H-240	REP-P	00-03-063	356- 30-075	AMD-P	00-04-052
296-350-70055	NEW-P	00-05-058	308-124H-245	NEW-P	00-03-063	359- 14-010	NEW-P	00-04-054
296-350-70060	NEW-P	00-05-058	308-124H-246	NEW-P	00-03-063	359- 14-020	NEW-P	00-04-054
296-350-70065	NEW-P	00-05-058	308-124H-260	AMD-P	00-03-063	359- 14-030	NEW-P	00-04-054
296-350-70070	NEW-P	00-05-058	308-124H-270	AMD-P	00-03-063	359- 14-050	NEW-P	00-04-054
308- 04-020	AMD-P	00-05-014	308-124H-290	AMD-P	00-03-063	359- 14-070	NEW-P	00-04-054
308- 56A-450	AMD	00-04-046	308-124H-300	AMD-P	00-03-063	359- 14-080	NEW-P	00-04-054
308- 56A-455	AMD	00-04-046	308-124H-310	AMD-P	00-03-063	359- 14-100	NEW-P	00-04-054
308- 56A-465	REP	00-04-046	308-124H-320	AMD-P	00-03-063	359- 14-130	NEW-P	00-04-054
308- 56A-470	REP	00-04-046	308-124H-510	AMD-P	00-03-063	359- 40-010	NEW-P	00-04-054
308- 72-720	NEW-P	00-05-014	308-124H-520	REP-P	00-03-063	359- 40-020	NEW-P	00-04-054
308- 77	PREP	00-03-037	308-124H-525	NEW-P	00-03-063	359- 40-050	NEW-P	00-04-054
308- 77-045	PREP	00-03-037	308-124H-530	AMD-P	00-03-063	359- 40-060	NEW-P	00-04-054
308- 77-155	PREP	00-03-037	308-124H-551	NEW-P	00-03-063	365-120	AMD	00-05-020
308- 77-165	PREP	00-03-037	308-124H-580	AMD-P	00-03-063	365-120-010	AMD	00-05-020
308- 77-170	PREP	00-03-037	308-124H-800	AMD-P	00-03-063	365-120-020	AMD	00-05-020
308- 77-180	PREP	00-03-037	308-125-200	AMD	00-04-057	365-120-030	AMD	00-05-020
308- 77-240	PREP	00-03-037	314- 37	PREP	00-02-087	365-120-040	AMD	00-05-020
308- 77-265	PREP	00-03-037	314- 42-010	NEW-P	00-02-089	365-120-050	AMD	00-05-020
308- 77-270	PREP	00-03-037	314- 48-010	PREP	00-02-087	365-120-060	AMD	00-05-020
308- 77-280	PREP	00-03-037	314- 56-010	REP-XR	00-02-086	365-120-070	NEW	00-05-020
308- 77-290	NEW-P	00-05-014	314- 56-020	REP-XR	00-02-086	365-120-080	NEW	00-05-020
308- 78-100	NEW-P	00-05-014	314- 60	PREP	00-02-088	365-120-090	NEW	00-05-020
308- 91-090	PREP	00-03-038	314- 62	PREP	00-02-088	365-135-020	AMD	00-02-061
308- 91-150	AMD-P	00-05-014	314- 64	PREP	00-02-087	365-195-900	NEW-P	00-03-066
308- 93-145	AMD-P	00-05-056	314- 76-010	PREP	00-02-087	365-195-905	NEW-P	00-03-066
308- 93-165	REP-P	00-05-049	314- 78-010	REP-XR	00-02-086	365-195-910	NEW-P	00-03-066
308- 93-650	AMD-P	00-05-049	315- 06-120	PREP	00-05-059	365-195-915	NEW-P	00-03-066
308- 94-010	REP-P	00-05-050	315- 11A-165	REP-XR	00-02-055	365-195-920	NEW-P	00-03-066
308- 94-160	REP-P	00-05-050	315- 11A-187	REP-XR	00-02-055	365-195-925	NEW-P	00-03-066
308- 96A-005	AMD-P	00-03-094	315- 11A-188	REP-XR	00-02-055	365-197-010	NEW-P	00-03-067
308- 96A-345	AMD	00-03-057	315- 11A-189	REP-XR	00-02-055	365-197-020	NEW-P	00-03-067
308- 96A-350	AMD	00-03-057	315- 11A-190	REP-XR	00-02-055	365-197-030	NEW-P	00-03-067
308- 96A-355	AMD	00-03-057	315- 11A-191	REP-XR	00-02-055	365-197-040	NEW-P	00-03-067
308- 96A-360	REP	00-03-057	315- 11A-192	REP-XR	00-02-055	365-197-050	NEW-P	00-03-067
308- 96A-365	AMD	00-03-057	315- 11A-193	REP-XR	00-02-055	365-197-060	NEW-P	00-03-067
308- 96A-370	REP	00-03-057	315- 11A-194	REP-XR	00-02-055	365-197-070	NEW-P	00-03-067
308- 96A-375	REP	00-03-057	315- 11A-195	REP-XR	00-02-055	365-197-080	NEW-P	00-03-067
308- 96A-380	REP	00-03-057	315- 11A-196	REP-XR	00-02-055	388- 15-120	REP	00-03-029
308-124-021	AMD-P	00-03-063	315- 11A-197	REP-XR	00-02-055	388- 15-145	REP	00-04-056
308-124E-013	AMD-P	00-03-063	315- 11A-198	REP-XR	00-02-055	388- 15-196	REP	00-03-043
308-124H-011	AMD-P	00-03-063	315- 11A-199	REP-XR	00-02-055	388- 15-19600	REP	00-03-043
308-124H-012	NEW-P	00-03-063	315- 11A-200	REP-XR	00-02-055	388- 15-19610	REP	00-03-043
308-124H-013	NEW-P	00-03-063	315- 11A-201	REP-XR	00-02-055	388- 15-19620	REP	00-03-043
308-124H-021	REP-P	00-03-063	315- 11A-202	REP-XR	00-02-055	388- 15-19630	REP	00-03-043
308-124H-025	AMD-P	00-03-063	315- 11A-203	REP-XR	00-02-055	388- 15-19640	REP	00-03-043
308-124H-026	NEW-P	00-03-063	315- 11A-204	REP-XR	00-02-055	388- 15-19650	REP	00-03-043
308-124H-027	NEW-P	00-03-063	315- 11A-205	REP-XR	00-02-055	388- 15-19660	REP	00-03-043
308-124H-028	NEW-P	00-03-063	315- 11A-206	REP-XR	00-02-055	388- 15-19670	REP	00-03-043
308-124H-029	NEW-P	00-03-063	315- 11A-207	REP-XR	00-02-055	388- 15-19680	REP	00-03-043
308-124H-031	NEW-P	00-03-063	315- 11A-208	REP-XR	00-02-055	388- 15-198	REP	00-03-043
308-124H-034	NEW-P	00-03-063	315- 11A-209	REP-XR	00-02-055	388- 15-200	REP	00-04-056
308-124H-039	NEW-P	00-03-063	315- 11A-210	REP-XR	00-02-055	388- 15-201	REP	00-04-056

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388- 15-206	REP	00-04-056	388- 71-0440	NEW	00-04-056	388-200-1300	PREP	00-04-036
388- 15-207	REP	00-04-056	388- 71-0445	NEW	00-04-056	388-200-1350	PREP	00-04-036
388- 15-209	REP	00-04-056	388- 71-0450	NEW	00-04-056	388-235-9000	AMD	00-05-007
388- 15-214	REP	00-04-056	388- 71-0455	NEW	00-04-056	388-310-0200	AMD-P	00-03-051
388- 15-215	REP	00-04-056	388- 71-0460	NEW	00-04-056	388-310-0300	AMD-P	00-03-051
388- 15-219	REP	00-04-056	388- 71-0465	NEW	00-04-056	388-310-0400	AMD-P	00-03-051
388- 15-222	REP	00-04-056	388- 71-0470	NEW	00-04-056	388-310-0700	AMD-P	00-03-051
388- 15-548	REP	00-04-056	388- 71-0475	NEW	00-04-056	388-310-0800	PREP	00-05-109
388- 15-551	REP	00-04-056	388- 71-0480	NEW	00-04-056	388-310-1400	AMD-P	00-03-051
388- 15-552	REP	00-04-056	388- 71-0500	NEW	00-03-043	388-310-1450	NEW-P	00-03-051
388- 15-553	REP	00-04-056	388- 71-0505	NEW	00-03-043	388-310-1850	AMD-E	00-03-013
388- 15-554	REP	00-04-056	388- 71-0510	NEW	00-03-043	388-310-1850	AMD-P	00-04-091
388- 15-555	REP	00-04-056	388- 71-0515	NEW	00-03-043	388-400-0005	AMD	00-05-007
388- 15-560	REP	00-04-056	388- 71-0520	NEW	00-03-043	388-400-0010	AMD	00-05-007
388- 15-562	REP	00-04-056	388- 71-0525	NEW	00-03-043	388-404-0005	AMD	00-05-007
388- 15-563	REP	00-04-056	388- 71-0530	NEW	00-03-043	388-408-0020	AMD	00-05-007
388- 15-564	REP	00-04-056	388- 71-0535	NEW	00-03-043	388-416-0015	AMD-P	00-04-045
388- 15-566	REP	00-04-056	388- 71-0540	NEW	00-03-043	388-418-0012	REP-P	00-03-062
388- 15-568	REP	00-04-056	388- 71-0545	NEW	00-03-043	388-418-0025	AMD-P	00-04-045
388- 15-600	REP	00-04-056	388- 71-0550	NEW	00-03-043	388-424-0015	AMD-P	00-05-110
388- 15-620	REP	00-04-056	388- 71-0555	NEW	00-03-043	388-430-0001	REP	00-05-007
388- 15-630	REP	00-04-056	388- 71-0560	NEW	00-03-043	388-430-0005	REP	00-05-007
388- 15-690	REP	00-04-056	388- 71-0580	NEW	00-03-043	388-430-0010	REP	00-05-007
388- 15-695	REP	00-04-056	388- 71-0600	NEW	00-04-056	388-430-0015	REP	00-05-007
388- 15-700	REP	00-04-056	388- 71-0605	NEW	00-04-056	388-430-0020	REP	00-05-007
388- 15-705	REP	00-04-056	388- 71-0610	NEW	00-04-056	388-430-0025	REP	00-05-007
388- 15-710	REP	00-04-056	388- 71-0615	NEW	00-04-056	388-440-0001	AMD	00-03-034
388- 15-715	REP	00-04-056	388- 71-0620	NEW	00-04-056	388-440-0005	AMD	00-03-034
388- 15-810	REP	00-04-056	388- 71-1000	NEW	00-04-056	388-442-0010	AMD	00-05-007
388- 15-830	REP	00-04-056	388- 71-1005	NEW	00-04-056	388-444-0015	AMD	00-04-006
388- 15-880	REP	00-04-056	388- 71-1010	NEW	00-04-056	388-444-0035	AMD	00-04-006
388- 15-890	REP	00-04-056	388- 71-1015	NEW	00-04-056	388-444-0055	AMD	00-04-006
388- 15-895	REP	00-04-056	388- 71-1020	NEW	00-04-056	388-444-0065	AMD	00-04-006
388- 17-010	REP	00-04-056	388- 71-1025	NEW	00-04-056	388-444-0075	AMD	00-04-006
388- 17-020	REP	00-04-056	388- 71-1030	NEW	00-04-056	388-450-0015	PREP	00-03-060
388- 17-100	REP	00-04-056	388- 71-1035	NEW	00-04-056	388-450-0035	AMD-E	00-02-062
388- 17-120	REP	00-04-056	388- 71-1065	NEW	00-04-056	388-480-0001	AMD	00-05-007
388- 17-160	REP	00-04-056	388- 71-1070	NEW	00-04-056	388-490-0005	AMD-P	00-04-092
388- 17-180	REP	00-04-056	388- 71-1075	NEW	00-04-056	388-501-0125	PREP	00-03-011
388- 17-500	REP	00-04-056	388- 71-1080	NEW	00-04-056	388-501-0160	AMD	00-03-035
388- 17-510	REP	00-04-056	388- 71-1085	NEW	00-04-056	388-501-0165	AMD	00-03-035
388- 24-2070	REP	00-03-012	388- 71-1090	NEW	00-04-056	388-529-2940	REP	00-05-039
388- 24-2100	REP	00-03-012	388- 71-1095	NEW	00-04-056	388-529-2950	REP	00-05-039
388- 24-2150	REP	00-03-012	388- 71-1100	NEW	00-04-056	388-538-001	REP	00-04-080
388- 24-2200	REP	00-03-012	388- 71-1105	NEW	00-04-056	388-538-050	AMD	00-04-080
388- 24-2250	REP	00-03-012	388- 71-1110	NEW	00-04-056	388-538-060	AMD	00-04-080
388- 24-2350	REP	00-03-012	388- 86	PREP	00-03-011	388-538-065	NEW	00-04-080
388- 24-2430	REP	00-03-012	388- 86-012	PREP	00-03-011	388-538-066	NEW	00-04-080
388- 71-0100	NEW	00-03-029	388- 86-017	PREP	00-05-108	388-538-070	AMD	00-04-080
388- 71-0105	NEW	00-03-029	388- 86-019	PREP	00-03-011	388-538-080	AMD	00-04-080
388- 71-0110	NEW	00-03-029	388- 86-067	REP	00-05-039	388-538-090	REP	00-04-080
388- 71-0115	NEW	00-03-029	388- 86-090	REP	00-04-019	388-538-095	AMD	00-04-080
388- 71-0120	NEW	00-03-029	388- 86-110	PREP	00-03-011	388-538-100	AMD	00-04-080
388- 71-0150	NEW	00-03-029	388- 86-115	PREP	00-03-011	388-538-110	AMD	00-04-080
388- 71-0155	NEW	00-03-029	388- 86-120	PREP	00-03-011	388-538-120	AMD	00-04-080
388- 71-0400	NEW	00-04-056	388- 86-300	PREP	00-03-011	388-538-130	AMD	00-04-080
388- 71-0405	NEW	00-04-056	388- 87	PREP	00-03-011	388-538-140	AMD	00-04-080
388- 71-0410	NEW	00-04-056	388- 87-027	PREP	00-03-011	388-538-150	REP	00-04-080
388- 71-0415	NEW	00-04-056	388- 87-067	REP	00-05-039	388-539	PREP	00-05-038
388- 71-0420	NEW	00-04-056	388- 87-077	REP	00-05-039	388-542-0050	NEW-P	00-03-061
388- 71-0425	NEW	00-04-056	388- 87-090	REP	00-04-019	388-542-0100	NEW-P	00-03-061
388- 71-0430	NEW	00-04-056	388-200-1160	REP	00-03-035	388-542-0125	NEW-P	00-03-061

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-542-0150	NEW-P	00-03-061	392-140-665	REP	00-03-015	415-02-080	AMD-P	00-04-025
388-542-0200	NEW-P	00-03-061	392-140-675	AMD	00-03-015	415-02-100	AMD-P	00-04-025
388-542-0250	NEW-P	00-03-061	392-140-680	AMD	00-03-015	415-02-120	NEW-P	00-04-025
388-542-0275	NEW-P	00-03-061	392-140-700	REP	00-02-063	415-02-130	NEW-P	00-04-025
388-542-0300	NEW-P	00-03-061	392-140-701	REP	00-02-063	415-04	PREP	00-04-061
388-545-500	NEW	00-04-019	392-140-702	REP	00-02-063	415-08	PREP	00-04-061
388-547	PREP	00-03-010	392-140-710	REP	00-02-063	415-10	PREP	00-04-062
388-825-226	AMD-P	00-05-107	392-140-711	REP	00-02-063	415-104-450	NEW-P	00-04-023
388-825-228	AMD-P	00-05-107	392-140-712	REP	00-02-063	415-108-315	NEW-P	00-04-024
388-825-254	AMD-P	00-05-107	392-140-713	REP	00-02-063	415-112-125	AMD-P	00-04-024
388-890-0735	NEW-W	00-02-065	392-140-714	REP	00-02-063	415-112-140	AMD-P	00-04-024
388-890-0740	NEW-W	00-02-065	392-140-715	REP	00-02-063	415-112-145	AMD-P	00-04-024
388-890-0865	NEW-W	00-02-065	392-140-716	REP	00-02-063	415-112-155	AMD-P	00-04-024
390-05-400	AMD	00-04-058	392-140-720	REP	00-02-063	415-112-330	AMD-P	00-04-024
391-08	PREP	00-04-070	392-140-721	REP	00-02-063	415-112-460	AMD-P	00-04-024
391-45	PREP	00-04-070	392-140-722	REP	00-02-063	415-112-4605	AMD-P	00-04-024
391-45-070	AMD-E	00-03-053	392-140-723	REP	00-02-063	415-112-4608	AMD-P	00-04-024
391-45-110	AMD-E	00-03-053	392-140-724	REP	00-02-063	415-112-471	AMD-P	00-04-024
391-45-130	AMD-E	00-03-053	392-140-725	REP	00-02-063	415-112-473	AMD-P	00-04-024
391-95	PREP	00-04-070	392-140-726	REP	00-02-063	415-112-475	AMD-P	00-04-024
392-127-011	AMD	00-02-064	392-140-727	REP	00-02-063	415-112-477	AMD-P	00-04-024
392-127-015	AMD	00-02-064	392-140-728	REP	00-02-063	415-112-705	NEW-P	00-04-024
392-127-030	REP	00-02-064	392-140-730	REP	00-02-063	415-112-920	NEW-P	00-04-024
392-127-035	REP	00-02-064	392-140-731	REP	00-02-063	415-112-950	NEW-P	00-04-024
392-127-040	REP	00-02-064	392-140-732	REP	00-02-063	434-219-020	AMD	00-03-003
392-127-050	REP	00-02-064	392-140-733	REP	00-02-063	434-219-120	AMD	00-03-003
392-127-055	REP	00-02-064	392-140-735	REP	00-02-063	434-219-160	AMD	00-03-003
392-127-060	REP	00-02-064	392-140-736	REP	00-02-063	434-219-160	AMD-E	00-03-036
392-127-065	AMD	00-02-064	392-140-740	REP	00-02-063	434-219-165	NEW	00-03-003
392-127-070	AMD	00-02-064	392-140-741	REP	00-02-063	434-219-170	NEW	00-03-003
392-127-085	AMD	00-02-064	392-140-742	REP	00-02-063	434-219-180	AMD	00-03-003
392-127-095	REP	00-02-064	392-140-743	REP	00-02-063	434-219-185	NEW	00-03-003
392-127-101	REP	00-02-064	392-140-744	REP	00-02-063	434-219-210	AMD	00-03-003
392-127-106	REP	00-02-064	392-140-745	REP	00-02-063	434-219-220	AMD	00-03-003
392-127-111	AMD	00-02-064	392-140-746	REP	00-02-063	434-219-230	AMD	00-03-003
392-127-112	NEW	00-02-064	392-140-747	REP	00-02-063	434-219-240	AMD	00-03-003
392-127-810	REP	00-02-064	392-140-900	NEW	00-02-063	434-219-250	AMD	00-03-003
392-139-001	AMD-P	00-05-061	392-140-901	NEW	00-02-063	434-219-255	NEW	00-03-003
392-139-005	AMD-P	00-05-061	392-140-902	NEW	00-02-063	434-219-260	AMD	00-03-003
392-139-007	AMD-P	00-05-061	392-140-903	NEW	00-02-063	434-219-270	AMD	00-03-003
392-139-008	NEW-P	00-05-061	392-140-905	NEW	00-02-063	434-219-280	AMD	00-03-003
392-139-310	AMD-P	00-05-061	392-140-906	NEW	00-02-063	434-219-280	AMD-E	00-05-093
392-139-320	AMD-P	00-05-061	392-140-907	NEW	00-02-063	434-219-285	NEW	00-03-003
392-139-605	REP-P	00-05-061	392-140-908	NEW	00-02-063	434-219-290	AMD	00-03-003
392-139-610	AMD-P	00-05-061	392-140-910	NEW	00-02-063	434-219-300	NEW	00-03-003
392-139-615	AMD-P	00-05-061	392-140-911	NEW	00-02-063	434-219-310	AMD	00-03-003
392-139-620	AMD-P	00-05-061	392-140-912	NEW	00-02-063	434-219-320	AMD	00-03-003
392-139-622	REP-P	00-05-061	392-140-913	NEW	00-02-063	434-240-202	NEW-E	00-03-036
392-139-623	REP-P	00-05-061	392-300-070	NEW-E	00-05-099	434-257	AMD-E	00-04-010
392-139-625	AMD-P	00-05-061	399-30-030	PREP	00-04-096	434-257-010	AMD-E	00-04-010
392-139-660	AMD-P	00-05-061	399-30-030	AMD-E	00-04-097	434-257-020	AMD-E	00-04-010
392-139-661	REP-P	00-05-061	399-50-010	NEW-C	00-04-100	434-257-030	AMD-E	00-04-010
392-139-670	AMD-P	00-05-061	399-50-020	NEW-C	00-04-100	434-257-050	REP-E	00-04-010
392-139-676	AMD-P	00-05-061	399-50-030	NEW-C	00-04-100	434-257-070	AMD-E	00-04-010
392-140-600	AMD	00-03-015	399-50-040	NEW-C	00-04-100	434-257-080	REP-E	00-04-010
392-140-601	AMD	00-03-015	415-02-010	AMD-P	00-04-025	434-257-090	AMD-E	00-04-010
392-140-605	AMD	00-03-015	415-02-020	AMD-P	00-04-025	434-257-100	AMD-E	00-04-010
392-140-613	AMD	00-03-015	415-02-030	AMD-P	00-04-025	434-257-120	REP-E	00-04-010
392-140-625	AMD	00-03-015	415-02-040	REP-P	00-04-025	434-257-130	AMD-E	00-04-010
392-140-626	NEW	00-03-015	415-02-050	AMD-P	00-04-025	434-257-150	AMD-E	00-04-010
392-140-630	AMD	00-03-015	415-02-060	AMD-P	00-04-025	434-262-080	AMD-P	00-05-095
392-140-660	AMD	00-03-015	415-02-070	REP-P	00-04-025	434-262-110	AMD-P	00-05-095

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Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
434-262-120	AMD-P	00-05-095	458- 20-261	AMD-XA	00-03-001	478-324-060	AMD	00-04-039
434-334-090	AMD-P	00-05-094	458- 30-200	PREP	00-05-074	478-324-070	AMD	00-04-039
434-334-110	AMD-P	00-05-094	458- 30-275	PREP	00-05-074	478-324-090	AMD	00-04-039
434-334-127	NEW-P	00-05-094	458- 30-285	PREP	00-05-074	478-324-110	AMD	00-04-039
434-334-140	AMD-P	00-05-094	458- 30-295	PREP	00-05-074	478-324-120	AMD	00-04-039
434-334-160	AMD-P	00-05-094	458- 30-300	PREP	00-05-074	478-324-130	AMD	00-04-039
434-334-165	AMD-P	00-05-094	458- 30-305	PREP	00-05-074	478-324-140	AMD	00-04-039
434-663-100	AMD-P	00-04-083	458- 30-310	PREP	00-05-074	478-324-150	AMD	00-04-039
434-663-270	NEW-P	00-04-083	458- 30-315	PREP	00-05-074	478-324-170	AMD	00-04-039
434-663-280	NEW-P	00-04-083	458- 30-325	PREP	00-05-074	478-324-180	AMD	00-04-039
434-663-300	AMD-P	00-04-083	458- 30-350	PREP	00-05-074	478-324-190	AMD	00-04-039
434-663-305	NEW-P	00-04-083	458- 61-230	AMD-P	00-04-055	478-324-200	AMD	00-04-039
434-663-310	AMD-P	00-04-083	460- 21C-005	NEW-P	00-02-068	478-324-210	AMD	00-04-039
434-663-320	AMD-P	00-04-083	460- 21C-005	NEW	00-05-055	480- 60-010	AMD	00-04-011
434-663-400	AMD-P	00-04-083	460- 21C-010	NEW-P	00-02-068	480- 60-012	NEW	00-04-011
434-663-400	DECOD-P	00-04-083	460- 21C-010	NEW	00-05-055	480- 60-014	NEW	00-04-011
434-663-405	NEW-P	00-04-083	460- 21C-020	NEW-P	00-02-068	480- 60-020	AMD	00-04-011
434-663-410	AMD-P	00-04-083	460- 21C-020	NEW	00-05-055	480- 60-030	AMD	00-04-011
434-663-410	DECOD-P	00-04-083	460- 21C-030	NEW-P	00-02-068	480- 60-035	NEW	00-04-011
434-663-420	AMD-P	00-04-083	460- 21C-030	NEW	00-05-055	480- 60-040	AMD	00-04-011
434-663-420	DECOD-P	00-04-083	460- 21C-040	NEW-P	00-02-068	480- 60-050	AMD	00-04-011
434-663-430	AMD-P	00-04-083	460- 21C-040	NEW	00-05-055	480- 60-060	AMD	00-04-011
434-663-430	DECOD-P	00-04-083	460- 44A-500	AMD	00-04-094	480- 60-070	REP	00-04-011
434-663-440	AMD-P	00-04-083	460- 44A-504	AMD	00-04-094	480- 60-080	AMD	00-04-011
434-663-440	DECOD-P	00-04-083	460- 46A-010	REP	00-04-095	480- 60-090	AMD	00-04-011
434-663-450	DECOD-P	00-04-083	460- 46A-020	REP	00-04-095	480- 60-99002	REP	00-04-011
434-663-460	REP-P	00-04-083	460- 46A-025	REP	00-04-095	480- 60-99003	REP	00-04-011
434-663-470	REP-P	00-04-083	460- 46A-030	REP	00-04-095	480- 66-010	REP	00-04-011
434-663-480	REP-P	00-04-083	460- 46A-040	REP	00-04-095	480- 66-020	REP	00-04-011
434-663-490	AMD-P	00-04-083	460- 46A-050	REP	00-04-095	480- 66-030	REP	00-04-011
434-663-490	DECOD-P	00-04-083	460- 46A-055	REP	00-04-095	480- 66-040	REP	00-04-011
434-663-510	REP-P	00-04-083	460- 46A-061	REP	00-04-095	480- 66-050	REP	00-04-011
434-663-520	REP-P	00-04-083	460- 46A-065	REP	00-04-095	480- 66-060	REP	00-04-011
434-663-530	AMD-P	00-04-083	460- 46A-071	REP	00-04-095	480- 66-070	REP	00-04-011
434-663-600	AMD-P	00-04-083	460- 46A-072	REP	00-04-095	480- 66-100	NEW	00-04-011
434-663-610	AMD-P	00-04-083	460- 46A-090	REP	00-04-095	480- 66-110	NEW	00-04-011
434-663-620	AMD-P	00-04-083	460- 46A-091	REP	00-04-095	480- 66-120	NEW	00-04-011
434-663-640	NEW-P	00-04-083	460- 46A-092	REP	00-04-095	480- 66-140	NEW	00-04-011
434-663-700	RECOD-P	00-04-083	460- 46A-095	REP	00-04-095	480- 66-150	NEW	00-04-011
434-663-710	RECOD-P	00-04-083	460- 46A-100	REP	00-04-095	480- 66-160	NEW	00-04-011
434-663-720	RECOD-P	00-04-083	460- 46A-105	REP	00-04-095	480- 66-170	NEW	00-04-011
434-663-730	RECOD-P	00-04-083	460- 46A-110	REP	00-04-095	480- 66-200	NEW	00-04-011
434-663-740	RECOD-P	00-04-083	460- 46A-115	REP	00-04-095	480- 66-210	NEW	00-04-011
434-663-750	RECOD-P	00-04-083	460- 46A-145	REP	00-04-095	480- 66-220	NEW	00-04-011
434-663-760	RECOD-P	00-04-083	460- 46A-150	REP	00-04-095	480- 66-230	NEW	00-04-011
434-663-770	NEW-P	00-04-083	460- 46A-155	REP	00-04-095	480- 66-300	NEW	00-04-011
434-663-780	NEW-P	00-04-083	460- 46A-160	REP	00-04-095	480- 66-310	NEW	00-04-011
446- 30-010	AMD	00-02-069	460- 46A-165	REP	00-04-095	480- 66-320	NEW	00-04-011
458- 12-315	REP-P	00-05-033	468- 38-070	PREP	00-04-068	480- 66-330	NEW	00-04-011
458- 12-320	AMD-P	00-05-033	468- 38-290	AMD-E	00-05-087	480- 66-400	NEW	00-04-011
458- 16-080	AMD-P	00-05-032	468- 38-290	PREP	00-05-088	480- 66-410	NEW	00-04-011
458- 16-081	REP-P	00-05-032	468-300-010	PREP	00-04-086	480- 66-420	NEW	00-04-011
458- 20-135	AMD-E	00-04-026	468-300-020	PREP	00-04-086	480- 66-430	NEW	00-04-011
458- 20-135	AMD-P	00-04-029	468-300-040	PREP	00-04-086	480- 66-440	NEW	00-04-011
458- 20-13501	PREP	00-04-027	468-300-220	PREP	00-04-086	480- 66-450	NEW	00-04-011
458- 20-136	AMD-E	00-04-026	478-132-010	AMD	00-04-038	480- 66-460	NEW	00-04-011
458- 20-136	AMD-P	00-04-029	478-132-030	AMD	00-04-038	480- 66-470	NEW	00-04-011
458- 20-13601	NEW-E	00-04-026	478-324-020	AMD	00-04-039	480- 66-480	NEW	00-04-011
458- 20-13601	NEW-P	00-04-029	478-324-030	AMD	00-04-039	480- 66-490	NEW	00-04-011
458- 20-217	PREP	00-05-073	478-324-040	AMD	00-04-039	480- 66-500	NEW	00-04-011
458- 20-228	AMD	00-04-028	478-324-045	NEW	00-04-039	480- 66-510	NEW	00-04-011
458- 20-239	AMD-XA	00-05-015	478-324-050	REP	00-04-039	480- 66-520	NEW	00-04-011

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
480-66-600	NEW	00-04-011						
480-66-620	NEW	00-04-011						
480-120-139	AMD	00-03-047						
495A-121-010	NEW-P	00-05-017						
495A-121-011	NEW-P	00-05-017						
495A-121-012	NEW-P	00-05-017						
495A-121-020	NEW-P	00-05-017						
495A-121-021	NEW-P	00-05-017						
495A-121-022	NEW-P	00-05-017						
495A-121-023	NEW-P	00-05-017						
495A-121-024	NEW-P	00-05-017						
495A-121-025	NEW-P	00-05-017						
495A-121-026	NEW-P	00-05-017						
495A-121-027	NEW-P	00-05-017						
495A-121-028	NEW-P	00-05-017						
495A-121-029	NEW-P	00-05-017						
495A-121-040	NEW-P	00-05-017						
495A-121-041	NEW-P	00-05-017						
495A-121-042	NEW-P	00-05-017						
495A-121-043	NEW-P	00-05-017						
495A-121-044	NEW-P	00-05-017						
495A-121-045	NEW-P	00-05-017						
495A-121-046	NEW-P	00-05-017						
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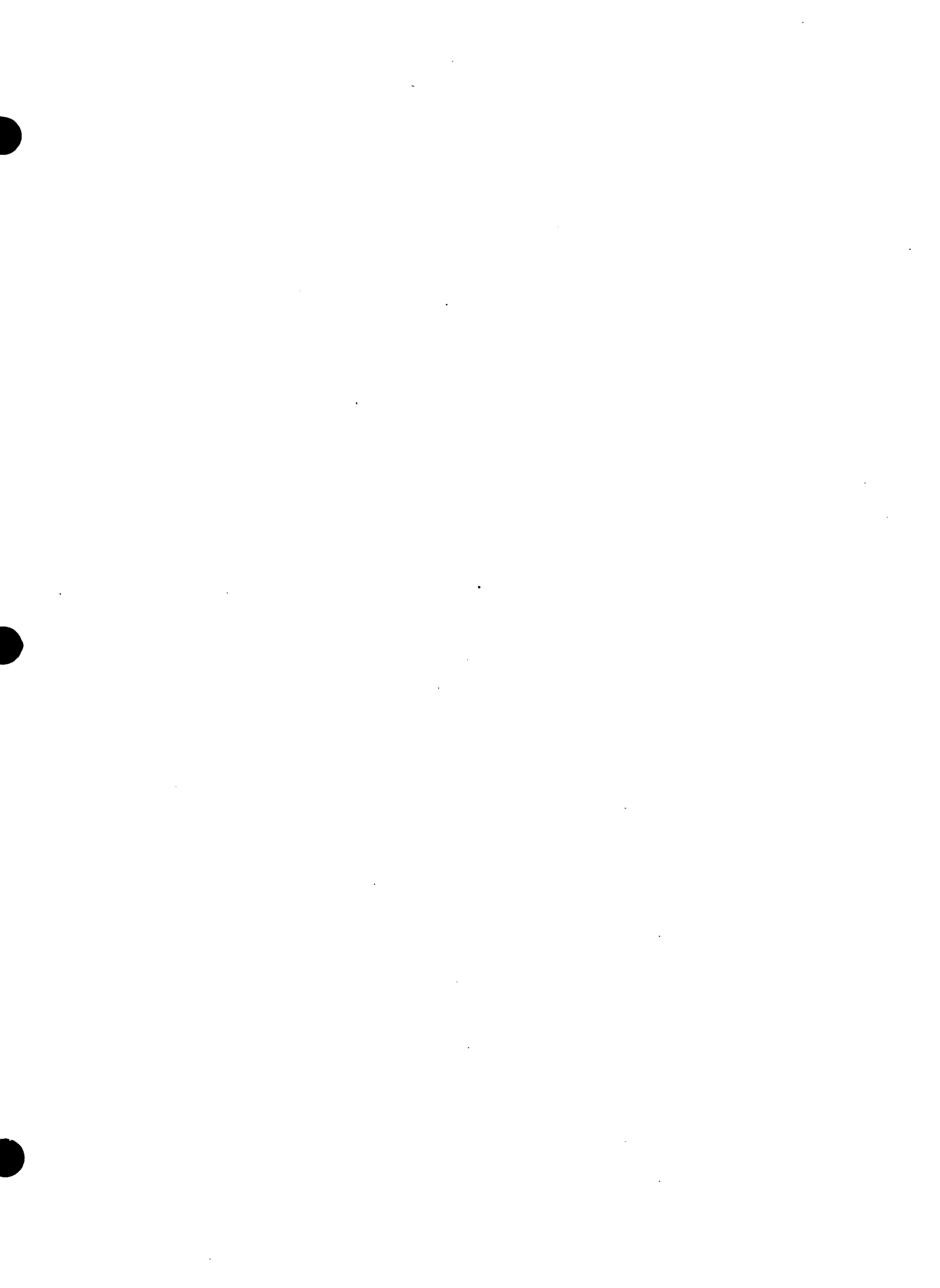
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