

February 7, 2001

OLYMPIA, WASHINGTON

ISSUE 01-03



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## CITATION

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

## PUBLIC INSPECTION OF DOCUMENTS

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

## REPUBLICATION OF OFFICIAL DOCUMENTS

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

## CERTIFICATE

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

DENNIS W. COOPER  
Code Reviser

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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 February 2001 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

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

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# WASHINGTON STATE REGISTER

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### WASHINGTON STATE REGISTER

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

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## STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

### 1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following eight sections:

- (a) **PREPROPOSAL**-includes the Preproposal Statement of Inquiry 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) **PERMANENT**-includes the full text of permanently adopted rules.
- (e) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (f) **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.
- (g) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (h) **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].

2000 - 2001

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 -					
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 5, 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	N/A
00 - 23	Oct 25, 00	Nov 8, 00	Nov 22, 00	Dec 6, 00	Dec 26, 00	N/A
00 - 24	Nov 8, 00	Nov 22, 00	Dec 6, 00	Dec 20, 00	Jan 9, 01	N/A
01 - 01	Nov 22, 00	Dec 6, 00	Dec 20, 00	Jan 3, 01	Jan 23, 01	N/A
01 - 02	Dec 6, 00	Dec 20, 00	Jan 3, 01	Jan 17, 01	Feb 6, 01	N/A
01 - 03	Dec 27, 00	Jan 10, 01	Jan 24, 01	Feb 7, 01	Feb 27, 01	N/A
01 - 04	Jan 10, 01	Jan 24, 01	Feb 7, 01	Feb 21, 01	Mar 13, 01	N/A
01 - 05	Jan 24, 01	Feb 7, 01	Feb 21, 01	Mar 7, 01	Mar 27, 01	N/A
01 - 06	Feb 7, 01	Feb 21, 01	Mar 7, 01	Mar 21, 01	Apr 10, 01	N/A
01 - 07	Feb 21, 01	Mar 7, 01	Mar 21, 01	Apr 4, 01	Apr 24, 01	N/A
01 - 08	Mar 7, 01	Mar 21, 01	Apr 4, 01	Apr 18, 01	May 8, 01	N/A
01 - 09	Mar 21, 01	Apr 4, 01	Apr 18, 01	May 2, 01	May 22, 01	N/A
01 - 10	Apr 4, 01	Apr 18, 01	May 2, 01	May 16, 01	Jun 5, 01	N/A
01 - 11	Apr 25, 01	May 9, 01	May 23, 01	Jun 6, 01	Jun 26, 01	N/A
01 - 12	May 9, 01	May 23, 01	Jun 6, 01	Jun 20, 01	Jul 10, 01	N/A
01 - 13	May 23, 01	Jun 6, 01	Jun 20, 01	Jul 5, 01	Jul 25, 01	N/A
01 - 14	Jun 7, 01	Jun 21, 01	Jul 5, 01	Jul 19, 01	Aug 8, 01	N/A
01 - 15	Jun 20, 01	Jul 5, 01	Jul 18, 01	Aug 1, 01	Aug 21, 01	N/A
01 - 16	Jul 5, 01	Jul 18, 01	Aug 1, 01	Aug 15, 01	Sep 4, 01	N/A
01 - 17	Jul 25, 01	Aug 8, 01	Aug 22, 01	Sep 5, 01	Sep 25, 01	N/A
01 - 18	Aug 8, 01	Aug 22, 01	Sep 5, 01	Sep 19, 01	Oct 9, 01	N/A
01 - 19	Aug 22, 01	Sep 5, 01	Sep 19, 01	Oct 3, 01	Oct 23, 01	N/A
01 - 20	Sep 5, 01	Sep 19, 01	Oct 3, 01	Oct 17, 01	Nov 6, 01	N/A
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01 - 22	Oct 10, 01	Oct 24, 01	Nov 7, 01	Nov 21, 01	Dec 11, 01	N/A
01 - 23	Oct 24, 01	Nov 7, 01	Nov 21, 01	Dec 5, 01	Dec 25, 01	N/A
01 - 24	Nov 7, 01	Nov 21, 01	Dec 5, 01	Dec 19, 01	Jan 8, 02	N/A

<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;

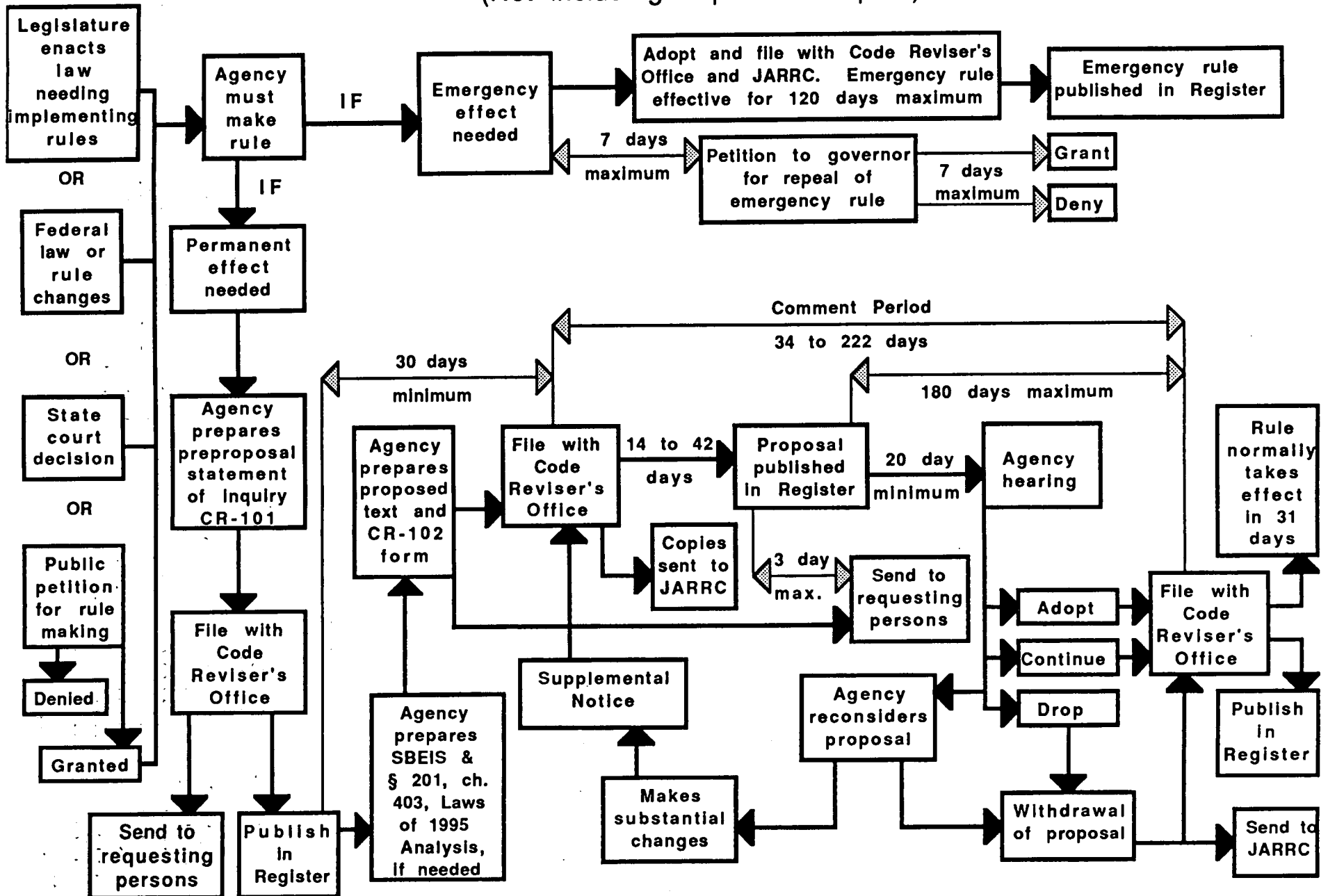
The rule REDUCES costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

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 01-03-024**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Economic Services Administration)  
 (Division of Assistance Programs)  
 [Filed January 5, 2001, 3:23 p.m.]

Subject of Possible Rule Making: Correct inadvertent omissions in rules chapter 388-488 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.057, 74.04.510.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The changes are needed to reflect current program policy and correct inadvertent errors that were created when the eligibility A-Z manual was written.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: United States Department of Agriculture, Food and Nutrition Services. The department will be using the Code of Federal Regulations, policy memos, and administrative notices from USDA, Food and Nutrition Services to ensure the rules meet federal requirements.

Process for Developing New Rule: DSHS welcomes the public to take part in developing the rules. Anyone interested should contact the staff person identified below. After the rules are drafted, DSHS will file a copy with the Office of the Code Reviser with a notice of proposed rule making. A copy of the draft will be sent to everyone on the mailing list and to anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lisa Yanagida, Program Manager, Division of Assistance Programs, Lacey Government Center, P.O. Box 45470, Olympia, WA 98504-4570, phone (360) 413-3104, fax (360) 413-3493, e-mail YANAGLN@DSHS.WA.GOV.

January 3, 2001  
 Bonita H. Jacques, Chief  
 Office of Legal Affairs

**WSR 01-03-029**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF COMMUNITY,**  
**TRADE AND ECONOMIC DEVELOPMENT**  
 (Office of Community Development)  
 [Filed January 8, 2001, 2:15 p.m.]

Subject of Possible Rule Making: Developmental disabilities endowment trust fund.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.330.240.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules are needed to implement the law and make the trust fund fully operational. Topics addressed by these rules will include:

- Applications and eligibility.

- Matching rates and limits; vesting requirements.
- Disbursement and types of services.
- Deposits and withdrawals.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: There are no other federal or state agencies that regulate this subject. The agency will coordinate with the state Department of Social and Health Services, the State Investment Board and the Office of the State Treasurer, as they will assist in implementing the program.

Process for Developing New Rule: The agency will conduct four public input meetings between January and March of 2001 before publishing draft rules. These meetings will be held in four areas around the state. The agency has developed an interested parties list and will notify these persons in writing about the date and location of the public input meetings. Interested parties can contact the agency via telephone, e-mail or letters to provide comment.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested parties can participate in the public input meetings described above, or they can contact Jeanne Marie Thomas, Program Manager, 906 Columbia Street S.W., P.O. Box 48300, Olympia, WA 98504-8350, (360) 725-2862, Jeannet@ceted.wa.gov.

January 4, 2001  
 Busse Nutley  
 Director

**WSR 01-03-052**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF LICENSING**  
 [Filed January 11, 2001, 4:02 p.m.]

Subject of Possible Rule Making: New geology WAC chapters. New WAC chapters to implement the new geologist licensing program.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.220.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: ESSB 6455, codified as chapter 18.220 RCW, requires the department to develop and administer a new statewide licensing program for geologists. The rules are needed to implement the 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; and Geologist Technical Advisory Committee study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Margaret Epting, Department of Licensing, Business and Professions Division, Geologist Licensing Board, P.O. Box 9045, Olympia, WA 98507-9045, fax (360) 664-2551.

January 11, 2001  
 Margaret Epting  
 Administrator

**WSR 01-03-059****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Health and Rehabilitative Services Administration)

[Filed January 11, 2001, 4:14 p.m.]

Subject of Possible Rule Making: Amendment of WAC 388-825-020 Definitions and 388-825-205 Who is eligible to participate in the Family Support Opportunity program?

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 71A.12.030. and 71A.12.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule amendment changes the definition of "family." This change restricts eligibility for the Division of Developmental Disabilities' Family Support Opportunity program by removing the word "marriage" from the definition. The rule also clarifies the date when persons requesting family support opportunity services will be added to the waiting list for that program.

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

Process for Developing New Rule: The department invites interested parties to participate in the rule development process. Please contact the person listed below for information.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Rita Dickey, Program Manager, Division of Developmental Disabilities Family Support Program, P.O. Box 45310, Olympia, WA 45310, Olympia, WA 98502, fax (360) 902-8482, TDD (360) 902-8455, e-mail dickerm@dshs.wa.gov.

January 9, 2001

Charles Hunter, Director  
Administrative Services Division

**WSR 01-03-070****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed January 15, 2001, 11:27 a.m.]

Subject of Possible Rule Making: Factory assembled structures' rules (chapters 296-150C, 296-150F, 296-150M, 296-150P, 296-150R, 296-150T, and 296-150V WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.22.340, 43.22.350, 43.22.355, 43.22.360, 43.22.400, 43.22.432, 43.22.434, 43.22.480, and 43.22.485.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The purpose of this project is to adopt the most recent state building codes and other nationally recognized codes and standards; make clarifying and housekeeping changes; and incorporate necessary policy into rule as directed by the Governor's Executive Order 97-02 on regulatory improvement.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: This subject is regulated by the Department of Labor and Industries and no other state or federal agencies were involved in this rule-making project.

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 Josh Swanson, Department of Labor and Industries, Specialty Compliance Services Division, P.O. Box 44400, Olympia, WA 98504-4400, phone (360) 902-6411, fax (360) 902-5292, e-mail swaj235@lni.wa.gov.

January 15, 2001

Gary Moore

Director

**WSR 01-03-080****PREPROPOSAL STATEMENT OF INQUIRY  
GAMBLING COMMISSION**

[Filed January 16, 2001, 12:35 a.m.]

Subject of Possible Rule Making: Pull-tabs games at nonprofit organizations.

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: Currently, only commercial pull-tab operators are allowed to offer happy hour pull-tab games, where pull-tab prize amounts are double. This proposal would allow charitable/nonprofit organizations to offer these games too.

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; Ed Fleisher, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 ext. 307; or Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 ext. 374.

Meetings at Cavanaugh's at Capitol Lake, 2300 Evergreen Park Drive S.W., Olympia, WA 98502, (360) 943-4000, on February 8 and 9, 2001; at the Double Tree Hotel - Pasco, 2525 North 20th Avenue, Pasco, WA 99301, (509) 547-0701, on March 8 and 9, 2001; and at The Heathman



Lodge, 7801 N.E. Greenwood Drive, Vancouver, WA 98662,  
(360) 254-3100, on April 12 and 13, 2001.

January 16, 2001

Susan Arland  
Rules Coordinator

### WSR 01-03-081

#### PREPROPOSAL STATEMENT OF INQUIRY PUBLIC DISCLOSURE COMMISSION

[Filed January 16, 2001, 1:05 p.m.]

Subject of Possible Rule Making: WAC 390-16-309  
Identification of affiliated entities.

Statutes Authorizing the Agency to Adopt Rules on this  
Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and  
What They Might Accomplish: The Public Disclosure Com-  
mission has received a petition for adoption, amendment, or  
repeal of a state administrative rule under RCW 34.05.330.

WAC 390-16-309 outlines when two or more entities are  
treated as a single person and share one contribution limit  
under RCW 42.17.640.

The petitioner believes this rule should be changed  
because it is not clear. Suggested language was attached to  
the petition for review by the commission. A copy of the  
rule-making petition is available at [www.pdc.wa.gov](http://www.pdc.wa.gov) under  
"rule-making activity."

Other Federal and State Agencies that Regulate this Sub-  
ject and the Process Coordinating the Rule with These Agen-  
cies: None.

Process for Developing New Rule: At its meeting on  
February 27, 2001, the commission is expected to discuss  
whether to move forward with the petitioner's suggestion to  
amend WAC 390-16-309. Public comment will be welcome  
at this meeting. Interested persons are invited to submit writ-  
ten comments by February 26, 2001, to Doug Ellis, Public  
Disclosure Commission, P.O. Box 40908, Olympia, WA  
98504-0908. Written comments received by Monday, Febru-  
ary 19, 2001, will be provided to commissioners in advance  
of the meeting.

Interested parties can participate in the decision to adopt  
the new rule and formulation of the proposed rule before pub-  
lication by contacting the Public Disclosure Commission,  
director of public outreach, Doug Ellis, P.O. Box 40908,  
Olympia, WA 98504-0908, phone (360) 664-2735; toll free  
1-877-601-2828, e-mail [dellis@pdc.wa.gov](mailto:dellis@pdc.wa.gov). A public hear-  
ing on this matter may occur on April 24, 2001.

January 16, 2001

Vicki Rippie  
Executive Director

### WSR 01-03-082

#### PREPROPOSAL STATEMENT OF INQUIRY PUBLIC DISCLOSURE COMMISSION

[Filed January 16, 2001, 1:07 p.m.]

Subject of Possible Rule Making: WAC 390-16-311  
Automatically affiliated entities maintaining separate contri-  
bution limits.

Statutes Authorizing the Agency to Adopt Rules on this  
Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and  
What They Might Accomplish: The Public Disclosure Com-  
mission has received a petition for adoption, amendment, or  
repeal of a state administrative rule under RCW 34.05.330.

WAC 390-16-311 outlines the circumstances under  
which automatically affiliated entities maintain separate con-  
tribution limits imposed by RCW 42.17.640.

The petitioner believes this rule should be repealed  
because it is not clear, the agency has no authority to make  
this rule and it conflicts with RCW 42.17.660. A copy of the  
rule-making petition is available at [www.pdc.wa.gov](http://www.pdc.wa.gov) under  
"rule-making activity."

Other Federal and State Agencies that Regulate this Sub-  
ject and the Process Coordinating the Rule with These Agen-  
cies: None.

Process for Developing New Rule: At its meeting on  
February 27, 2001, the commission is expected to discuss  
whether to move forward with the petitioner's suggestion to  
repeal WAC 390-16-311. Public comment will be welcome  
at this meeting. Interested persons are invited to submit writ-  
ten comments by February 26, 2001, to Doug Ellis, Public  
Disclosure Commission, P.O. Box 40908, Olympia, WA  
98504-0908. Written comments received by Monday, Febru-  
ary 19, 2001, will be provided to commissioners in advance  
of the meeting.

Interested parties can participate in the decision to adopt  
the new rule and formulation of the proposed rule before pub-  
lication by contacting the Public Disclosure Commission,  
Director of Public Outreach, Doug Ellis, P.O. Box 40908,  
Olympia, WA 98504-0908, phone (360) 664-2735, toll free  
1-877-601-2828, e-mail [dellis@pdc.wa.gov](mailto:dellis@pdc.wa.gov). A public hear-  
ing on this matter may occur on April 24, 2001.

January 16, 2001

Vicki Rippie  
Executive Director

### WSR 01-03-090

#### PREPROPOSAL STATEMENT OF INQUIRY DAIRY PRODUCTS COMMISSION

[Filed January 17, 2001, 3:51 p.m.]

Subject of Possible Rule Making: Rules to implement an  
increase in the current assessment.

Statutes Authorizing the Agency to Adopt Rules on this  
Subject: RCW 15.44.060(1) and 15.44.080.

Reasons Why Rules on this Subject may be Needed and  
What They Might Accomplish: To implement powers and  
duties vested to the Washington Dairy Products Commission

in RCW 15.44.060, such as the participation in federal and state agency hearings, meetings, and other proceedings in relation to the regulation of the production, manufacture, distribution, sale or use of dairy products, to provide educational meetings and seminars for the dairy industry on such matters, and to expend commission funds for such activities. Rules are needed to increase the current assessment in RCW 15.44.080 in order to carry out these powers and duties. The current assessment level falls within the Federal Dairy and Tobacco Adjustment Act of 1983, Section 113, which prohibits funding for the above specified activities from assessments collected under the federal program.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: United State Department of Agriculture.

Process for Developing New Rule: Agency study; and agency held public meetings to discuss the proposed rule with individuals affected and gather comments. One or more public hearings to be scheduled across the state.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Steve Matzen, Washington Dairy Products Commission, 4201 198th Street S.W., Suite 101, Lynnwood, WA 98036, phone (425) 672-0687, fax (425) 672-0674.

January 12, 2001  
Steve Matzen  
General Manager

**WSR 01-03-095**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)

[Filed January 18, 2001, 3:28 p.m.]

Subject of Possible Rule Making: Sections in chapter 388-551 WAC, Alternatives to hospital services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.09.520 and 74.08.090; 42 C.F.R. 418.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Medical Assistance Administration is incorporating language from current written agreements with hospice care centers into the hospice services WAC. At the same time, the proposed rules are being reviewed to clarify and update current sections relating to hospice services rules in chapter 388-551 WAC.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kathy Sayre, Regulatory Improvement

Program, Medical Assistance Administration, Olympia, WA 98501-5530, phone (360) 725-1342, fax (360) 586-9727, TTY 1 (800) 848-5429, e-mail sayrek@dshs.wa.gov.

January 17, 2001

Bonita H. Jacques, Chief  
Office of Legal Affairs

**WSR 01-03-096**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)

[Filed January 18, 2001, 3:30 p.m.]

Subject of Possible Rule Making: Home health services sections in chapter 388-551 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.09.530.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To meet the requirements of the Health Care Financing Authority (HCFA), the department is amending home health services sections in chapter 388-551 WAC that refer to "homebound" criteria and adding new language.

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

Process for Developing New Rule: The department invites the interested public to review and provide input on the draft language of these rules. Draft material and information about how to participate may be obtained by contacting the department representative listed below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kathy Sayre, Regulatory Improvement Program Manager, Medical Assistance Administration, Mail-stop 45533, Olympia, WA 98504-5586, phone (360) 725-1342, fax (360) 586-9727, e-mail sayrek@dshs.wa.gov.

January 17, 2001

Bonita H. Jacques, Chief  
Office of Legal Affairs

**WSR 01-03-099**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed January 19, 2001, 9:02 a.m.]

Subject of Possible Rule Making: WAC 392-122-900 Categorical apportionment—General provision—Carryover prohibited, 392-141-200 Transportation—State allocation—Recovery of transportation funds, and 392-122-322 Traffic safety education—Recovery of moneys.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.150.290.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule changes are needed to implement state budget language permitting school districts to carry over up to 10% of state allocations and institutional education programs. Changes are further required in the methodology of calculating state recoveries due to accounting changes made for the 2000-01 school year. Program 94 has been eliminated from the accounting structure of school districts effective for the 2000-01 school year.

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, Legal Services, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, fax (360) 753-4201, TDD (360) 664-3631. For telephone assistance contact Calvin W. Brodie, (360) 664-2117.

January 19, 2001  
Dr. Terry Bergeson  
Superintendent of  
Public Instruction

**WSR 01-03-102**

**PREPROPOSAL STATEMENT OF INQUIRY  
WENATCHEE VALLEY COLLEGE**

[Filed January 19, 2001, 1:33 p.m.]

Subject of Possible Rule Making: Withholding services for outstanding debt.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The college needs to be able to respond to nonpayment of debts by those seeking services. By withholding future access to college service by the debtor we can encourage the payment of the debt and assure that no additional debt is incurred.

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 William Martin, Dean of Administrative Services, Wenatchee Valley College, 1300 5th Street, Wenatchee, WA 98011, phone (509) 664-2554, fax (509) 664-2576, e-mail bmartin@wvcmail.ctc.edu.

January 12, 2001  
William Martin  
Dean of Administrative Services  
Rules Coordinator

**WSR 01-03-103**

**PREPROPOSAL STATEMENT OF INQUIRY  
WENATCHEE VALLEY COLLEGE**

[Filed January 19, 2001, 1:34 p.m.]

Subject of Possible Rule Making: Replacement rules for (1) practice and procedures for administrative adjudicative hearings to become chapter 132W-108 WAC; (2) access to public records, chapter 132W-276 WAC; (3) environmental protection, chapter 132W-325 WAC; (4) board of trustees, chapter 132W-104 WAC; (5) student rights and responsibilities, chapter 132W-112 WAC; (6) student code of conduct, chapter 132W-115 WAC; and (7) parking regulations, chapter 132W-116 WAC.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The college is processing the repeal of an obsolete set of procedures for adjudicative hearings, access to public records, environmental protection, student code of conduct, student rights and responsibilities, parking regulations and board of trustees. These new rules will take the place of those being repealed.

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 William Martin, Dean of Administrative Services, Wenatchee Valley College, 1300 5th Street, Wenatchee, WA 98011, phone (509) 664-2554, fax (509) 664-2576, e-mail bmartin@wvcmail.ctc.edu.

January 12, 2001  
William Martin  
Dean of Administrative Services  
Rules Coordinator

**WSR 01-03-106**

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

[Filed January 22, 2001, 11:05 a.m.]

We are withdrawing our preproposal statement of inquiry filed in June 2000 as WSR 00-13-099. The statement concerns amending current rules (chapter 208-512 WAC) and adopting new rules governing lending limits of state-chartered commercial banks. A new preproposal statement of inquiry will be filed at a later date.

If you have any questions regarding this request, please contact Patty Brombacher at 902-8748.

John L. Bley  
Director

**WSR 01-03-119**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Economic Services Administration)  
 [Filed January 22, 2001, 4:12 p.m.]

Subject of Possible Rule Making: WAC 388-472-0005  
 Client rights and responsibilities.

Statutes Authorizing the Agency to Adopt Rules on this  
 Subject: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090,  
 74.04.510.

Reasons Why Rules on this Subject may be Needed and  
 What They Might Accomplish: This revision is being done  
 to rewrite WAC 388-472-0005 in the same writing style that  
 will be used in new sections of this rule. The rules for neces-  
 sary supplemental accommodation (NSA) are being rewritten  
 and moved from chapter 388-200 WAC to chapter 388-472  
 WAC.

Other Federal and State Agencies that Regulate this Sub-  
 ject and the Process Coordinating the Rule with These Agen-  
 cies: None.

Process for Developing New Rule: All interested parties  
 are invited to review and provide input on proposed draft lan-  
 guage. Obtain draft material by contacting the identified rep-  
 resentative.

Interested parties can participate in the decision to adopt  
 the new rule and formulation of the proposed rule before pub-  
 lication by contacting Carla Gira, Program Manager, Divi-  
 sion of Assistance Programs, P.O. Box 45470, Olympia, WA  
 98504-5470, phone (360) 413-3264, fax (360) 413-4393, e-  
 mail giracg@dshs.wa.gov, Street Address 1009 College S.E.,  
 Lacey, WA 98503.

January 19, 2001  
 Charles Hunter, Director  
 Administrative Services Division

**WSR 01-03-125**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**PIERCE COLLEGE**  
 [Filed January 23, 2001, 10:25 a.m.]

Subject of Possible Rule Making: WAC 132K-122-  
 020(3).

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

Reasons Why Rules on this Subject may be Needed and  
 What They Might Accomplish: Amending the definition of  
 directory information in WAC 132K-122-020(3) will allow  
 the college to expand/delete items designated as directory  
 information without having to revise the WAC each time.

Other Federal and State Agencies that Regulate this Sub-  
 ject and the Process Coordinating the Rule with These Agen-  
 cies: Department of Education - 34 C.F.R. Part 99 (Family  
 Educational Rights and Privacy Act). In compliance with  
 FERPA, Pierce College will annually notify students of the  
 specific information in their education records designated as  
 directory information. To our knowledge, no other process is

required for coordinating the rule with the Department of  
 Education.

Process for Developing New Rule: Take the revised def-  
 inition of directory information and the items Pierce College  
 will designate as directory information to the following for  
 input: Student Services Council, Council for Learning and  
 Student Success; College Cabinet; Student Government bod-  
 ies, AG's Office, Academic Divisions, and the Executive  
 Team of Pierce College.

Interested parties can participate in the decision to adopt  
 the new rule and formulation of the proposed rule before pub-  
 lication by contacting Cynthia Torres-Jimenez, 9401 Farwest  
 Drive S.W., Lakewood, WA 98498-1999, office (253) 964-  
 6623, fax (253) 964-6427, e-mail ctores@pierce.ctc.edu.

January 18, 2001  
 Cynthia Torres-Jimenez  
 Registrar

**WSR 01-03-126**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**PIERCE COLLEGE**  
 [Filed January 23, 2001, 10:26 a.m.]

Subject of Possible Rule Making: WAC 132K-122-100.  
 Statutes Authorizing the Agency to Adopt Rules on this  
 Subject: RCW 28B.50.140.

Reasons Why Rules on this Subject may be Needed and  
 What They Might Accomplish: Amending WAC 132K-122-  
 100 would allow Pierce College to change the deadline and  
 conditions involving a student's request for nondisclosure of  
 directory information.

Other Federal and State Agencies that Regulate this Sub-  
 ject and the Process Coordinating the Rule with These Agen-  
 cies: Department of Education - 34 C.F.R. Part 99. To my  
 knowledge, no process is required for coordinating the rule  
 with the Department of Education.

Process for Developing New Rule: Take the revised  
 WAC proposal to the following for input: Student Services  
 Council, Council for Learning and Student Success, College  
 Cabinet, Student Government bodies, AG's Office, Academic  
 Divisions, and the Executive Team of Pierce College.

Interested parties can participate in the decision to adopt  
 the new rule and formulation of the proposed rule before pub-  
 lication by contacting Cynthia Torres-Jimenez, 9401 Farwest  
 Drive S.W., Lakewood, WA 98498-1999, office (253) 964-  
 6623, fax (253) 964-6427, e-mail ctores@pierce.ctc.edu.

January 18, 2001  
 Cynthia Torres-Jimenez  
 Registrar

**WSR 01-03-131**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SERVICES FOR THE BLIND**  
 [Filed January 23, 2001, 12:49 p.m.]

Subject of Possible Rule Making: Order of selection.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Federal Regulatory Authority for Order of Selection Rehabilitation Act of 1973, as amended, Section 101 (a)(5). 34 Code of Federal Regulations Part 361 Sec. 361.36 Ability to serve all eligible individuals; order of selection for services. Regulatory Authority for Information and Referral Services Rehabilitation Act of 1973, as amended, Section 101 (a)(20) Information and Referral services. 34 Code of Federal Regulations Part 361 Sec. 361.37 Information and referral services. The Rehabilitation Act of 1973, as Amended, Title I - Vocational Rehabilitation Services, Part A - General Provisions, Section 100 - Declaration of Policy; Authorization of Appropriations; (b) Authorization of Appropriations (5) Order of Selection for Vocational Rehabilitation Services.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In the event that the Department of Services for the Blind does not have sufficient vocational rehabilitation funds to serve all eligible participants, the federal Vocational Rehabilitation Act requires that a system be established for giving "the most severely disabled" eligible participants priority for services. The proposed rules would establish the state's definition of "the most severely disabled," as well as priority categories, and would provide a description of how order of selection would be implemented.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Division of Vocational Rehabilitation within the Department of Social and Health Services has already established a WAC on Order of Selection. Both the DVR WAC and the new rule we are proposing are designed to comply with the requirements of the Rehabilitation Act for how vocational rehabilitation funds are expended, and to assure that the full range of services, as required by the federal law, continue to be provided to eligible participants in priority categories in a fair and systematic manner. Our two agencies serve different constituencies and have a different definition for the "most severely disabled" which affects how the order of selection is implemented.

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 Lou Oma Durand, Department of Services for the Blind, Director of Employment Services, 9010 East Marginal Way South, Suite 12C, Seattle, WA 98108-4011, Loudurand@dsb.wa.gov, phone (206) 658-6735, fax (206) 764-4098, toll free 1-800-552-7103.

Department of Services for the Blind Community Meetings: On February 23, 2001, Seattle, Washington Talking Book and Braille Library, 5:30-7:30 p.m.; on February 24, 2001, Bellingham, Bellingham Public Library, 10-noon; on March 1, 2001, Vancouver, Washington State School for the Blind, 6-8 p.m.; on March 2, 2001, Tacoma, Tacoma Public

Library, 3:30-5:30 p.m.; on March 26, 2001, Richland, Richland Public Library, 6-8 p.m.; and on March 27, 2001, Spokane, LILAC, 6-8 p.m.

Rehabilitation Council Meeting on March 3, 2001, Tacoma, Tacoma Public Library, 9:30 a.m.-4 p.m.

January 23, 2001  
 Bill Palmer  
 Executive Director

**WSR 01-03-133**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF AGRICULTURE**  
 [Filed January 23, 2001, 3:03 p.m.]

Subject of Possible Rule Making: Require each apple container to be marked with the harvest year under the following guidelines: The harvest year marking would begin on October 1 of each calendar year, and be applied only to those containers of apples harvested in the previous year. The harvest year marking would be applied prior to or at time of shipment; that the marking will be at least one half inch in height and be displayed on the principal display panel of each container.

Establish annual release dates: September 10 for Golden Delicious, October 20 for Granny Smith of each calendar year.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 15.17 RCW, Standards of grades and packs.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Amendments to existing rules, chapter 16-403 WAC, Standards for apples marketed within the state of Washington, will assist retailers and consumers in identifying previous years apple crop with new crop apples. Establishment of annual release dates for Golden Delicious and Granny Smith apple varieties will eliminate the floating release dates, which was previously established by the Apple Maturity Committee.

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

Process for Developing New Rule: This is at the request of the Washington State Horticulture Associations Grade and Pack Committee. The department will be working with the association, other stakeholders and interested parties in the development of these rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by commenting to Jim Quigley, Program Manager, Washington State Department of Agriculture, Fruit and Vegetable Inspection Program, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1833, fax (360) 902-2085. Comments relating to the development of these rules must be received no later than March 9, 2001.

January 22, 2001  
 Robert W. Gore  
 Assistant Director

**WSR 01-03-134****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF AGRICULTURE**

[Filed January 23, 2001, 3:05 p.m.]

**Subject of Possible Rule Making:** Increase hourly inspection rates within the fiscal growth factor allowed under Initiative 601.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** Chapter 15.17 RCW, Standards of grades and packs.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Current hourly inspection rates are below the costs of providing services. Alignment of inspection charges with inspection practices and 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:** Discussions and focus group meetings will be held with industry groups and stakeholders throughout the state.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jim Quigley, Program Manager, Fruit and Vegetable Inspection Program, 1111 Washington Street, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1833, fax (360) 902-2085.

January 22, 2001  
Robert W. Gore  
Assistant Director

**WSR 01-03-135****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF AGRICULTURE**

[Filed January 23, 2001, 3:07 p.m.]

**Subject of Possible Rule Making:** Adjust the grain inspection program schedule of fees to reflect the allowable growth rates for Fiscal Year 2001 and Fiscal Year 2002 for selected hourly fees, hourly based unit fees, submitted sample fees, other unit fees, and to incorporate a variable export tonnage rate scale for export locations. Redefine grain inspection program charging practices associated with call back and weekly averaging procedures. Improve readability and clarity in the fee schedule, including improvement in the definition and availability of official commercial inspection services.

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

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The WSDA grain inspection program is entirely fee supported. The fee adjustments are necessary to offset increases in employer portions of the health benefit in Fiscal Year 2002 (July 1, 2001 - June 30, 2002) and Fiscal Year 2003 (July 1, 2002 - June 30, 2003) and to address anticipated salary increases in Fiscal Year 2002 and Fiscal Year 2003. Modifications or replacement of existing equipment will also be necessary to accommodate

changes in the requirements for official analysis of protein (artificial neural network capabilities) under GIPSA - FGIS (federal) rules, currently scheduled for Fiscal Year 2002 (May 2002).

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** The Grain Inspection, Packers and Stockyards Administration - Federal Grain Inspection Services (GIPSA - FGIS) must approve adjustment to the WSDA grain inspection program schedule of fees.

**Process for Developing New Rule:** Working with the Grain Inspection Advisory Committee and holding a public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Randall R. Deike, Grain Inspection Program Manager, Commodity Inspection Division, 1111 Washington Street S.E., P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1921, fax (360) 902-2085, TDD (360) 902-1996.

January 23, 2001  
Robert W. Gore  
Assistant Director  
Commodity Inspection

**WSR 01-03-136****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF AGRICULTURE**

[Filed January 23, 2001, 3:21 p.m.]

**Subject of Possible Rule Making:** Establishing rules relating to exclusion of, and regulation of host material for, sudden oak death.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** Chapters 15.13 and 17.24 RCW.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Currently no rules are in place regarding the lethal plant disease, sudden oak death, in Washington state. Recently sudden oak death has been found in rhododendron plants in California, as well as oak and tanoak trees. Washington is a major producer of rhododendrons in the country, and possible movement into the state of the pathogenic fungi linked to sudden oak death is cause to evaluate rule making.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** USDA APHIS has authority to quarantine and regulate for plant diseases, both interstate and internationally. To date the federal agency has not exercised its powers for many diseases, including sudden oak death, known to be present in the United States, leaving these issues to the states. There is well established precedent for advising and coordinating with USDA APHIS on plant health issues.

**Process for Developing New Rule:** Washington State Department of Agriculture representatives discuss proposed rule changes with the Nursery Advisory Committee, the California and Oregon Department of Agriculture, Washington State University Extension Service personnel with expertise

in this area and with stakeholders and then publish the proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Clinton Campbell, PhD, Pest Program Manager, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-2071, fax (360) 902-2094, e-mail [CCampbell@agr.wa.gov](mailto:CCampbell@agr.wa.gov); or Art Wagner, Plant Pathology Project Coordinator, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 586-5309, fax (360) 902-2094, e-mail [AWagner@agr.wa.gov](mailto:AWagner@agr.wa.gov).

January 23, 2001

Mary A. Martin Toohey  
Assistant Director

### WSR 01-03-137

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed January 23, 2001, 3:22 p.m.]

Subject of Possible Rule Making: Establishing rules relating to the certification of blueberry planting stock.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 15.14 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Currently no rules are in place regarding the certification of blueberry planting stock in Washington state. Possible advent of new plant pests or more virulent strains of existing pests may create industry need for planting stock certified to an established standard. Certified planting stock usually commands a market premium, and certified stock is the only planting stock eligible for export to many nations.

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

Process for Developing New Rule: Washington State Department of Agriculture representatives discuss proposed rule changes with the Washington Blueberry Commission, Washington State University Extension Service personnel with expertise in this area and stakeholders and then publish the rule proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Tom Wessels, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-201984 [902-1984], fax (360) 902-2094, e-mail [TWessels@agr.wa.gov](mailto:TWessels@agr.wa.gov).

January 23, 2001

Mary A. Martin Toohey  
Assistant Director

### WSR 01-03-138

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed January 23, 2001, 3:23 p.m.]

Subject of Possible Rule Making: Establishing rules relating to exclusion and regulation of host material for Blueberry Scorch Virus, a serious economic pest of blueberries.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 17.24 and 15.13 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Currently no rules are in place regarding Blueberry Scorch Virus in Washington state. The discovery of particularly virulent strains of Blueberry Scorch Virus in British Columbia and several states, and its potential for movement into Washington state is cause for possible rule making. Establishment of this virus would cause economic loss [in] the blueberry industry.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: USDA APHIS has authority to quarantine and regulate for plant diseases, both interstate and internationally. The federal agency has not exercised its powers for many diseases, including blueberry scorch, known to be present in areas of the United States, leaving these issues to the states. There is well established precedent for advising and coordinating with USDA APHIS on plant health issues.

Process for Developing New Rule: Washington State Department of Agriculture representatives discuss proposed rule changes [with the] Washington Blueberry Commission, Washington State University Extension Service personnel with expertise in this area, other affected government agencies and stakeholders and then publish the rule proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Clinton Campbell, PhD, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-2071, fax (360) 902-2094, e-mail [CCampbell@agr.wa.gov](mailto:CCampbell@agr.wa.gov); or Art Wagner, Plant Pathology Project Coordinator, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 586-5309, fax (360) 902-2094, e-mail [AWagner@agr.wa.gov](mailto:AWagner@agr.wa.gov).

January 23, 2001

Mary A. Martin Toohey  
Assistant Director

### WSR 01-03-139

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed January 23, 2001, 3:25 p.m.]

Subject of Possible Rule Making: To amend chapter 16-333 WAC, Certification of caneberry planting stock, by increasing fees within the fiscal growth factors for fiscal year 2001 and fiscal year 2002, and routine updating.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 15.14 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Current caneberry certification fee income is not adequate to cover costs of this activity, and it may be necessary to raise fees within the fiscal growth factors of both fiscal year 2001 and fiscal year 2002. Other modifications may be necessary to acknowledge changes in industry practices, environmental conditions, and legislative mandates.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary A. Martin Toohey, Assistant Director, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, fax (360) 902-2904, e-mail MToohey@agr.wa.gov; or Tom Wessels, Plant Services Program Manager, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1984, fax (360) 902-2094, e-mail TWessels@agr.wa.gov.

January 23, 2001

Mary A. Martin Toohey  
Assistant Director

#### WSR 01-03-140

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed January 23, 2001, 3:26 p.m.]

Subject of Possible Rule Making: To amend chapter 16-328 WAC, Certification of strawberry planting stock, by increasing fees within the fiscal growth factors for fiscal year 2001 and fiscal year 2002.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 15.14 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Current strawberry plant certification fee income is not adequate to cover costs of this activity, and it may be necessary to raise fees within the fiscal growth factors of both fiscal year 2001 and fiscal year 2002. Other modifications may be necessary to acknowledge changes in industry practices, environmental conditions, and legislative mandates.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary A. Martin Toohey, Assistant Director, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, fax (360) 902-2904, e-mail MToohey@agr.wa.gov; or Tom Wessels, Plant Services Program Manager, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1984, fax (360) 902-2094, e-mail TWessels@agr.wa.gov.

January 23, 2001

Mary A. Martin Toohey  
Assistant Director

#### WSR 01-03-144

#### PREPROPOSAL STATEMENT OF INQUIRY HOUSING FINANCE COMMISSION

[Filed January 24, 2001, 9:39 a.m.]

Subject of Possible Rule Making: WAC 262-01-110 to 262-01-130, providing procedures pursuant to which the commission will allocate or award tax credits.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 43.180 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The existing rules establish the parameters of the commission's tax credit allocation. The commission must adopt new rules to reflect changes in Section 42 of the Internal Revenue Code of 1986, as amended, which authorizes tax credits for the construction, acquisition or rehabilitation of residential rental projects meeting the requirements of the code.

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

Process for Developing New Rule: The commission will request written comments from persons who may be interested in the development of rules concerning its tax credit program. Comments received will be considered by the commission before the final rules are published pursuant to a formal notice.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments must be received by April 25, 2001. These comments will be considered by the commission at its April 26, 2001, meeting. Thereafter, the commission will proceed with rule making. Contact Ms. Margaret Sevy, Director, Tax Credit Division, Washington State Housing Finance Commission, 1000 Second Avenue, Suite 2700, Seattle, WA 98104-1046, phone (206) 464-7139, fax (206) 587-5113.

January 23, 2001

Paul Edwards  
Deputy Director



**WSR 01-03-145**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
 [Filed January 24, 2001, 9:46 a.m.]

Subject of Possible Rule Making: Increasing fees and assessments of the Division of Banks: Providing for an automatic annual increase in fee and assessment levels, up to the "fiscal growth factor" under chapter 43.135 RCW; allowing for the waiver of fee and assessment increases.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 30.04.030, 33.04.025, 43.320.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To provide necessary revenue increases to support the division.

Process for Developing New Rule: Consultation with stakeholders.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting David Kroeger, Director of Banks, 210 11th Street S.W., Room 300, P.O. Box 41200, Olympia, WA 98504, phone (360) 902-8747, fax (360) 704-6947, e-mail dkroeger@dfi.wa.gov, at or before any public hearing held on the rule.

January 24, 2001  
 John L. Bley  
 Director

**WSR 01-03-146**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
 [Filed January 24, 2001, 9:47 a.m.]

Subject of Possible Rule Making: Increasing fees and assessments of the Division of Credit Unions: Providing for an automatic annual increase in fee and assessment levels, up to the "fiscal growth factor" under chapter 43.135 RCW; allowing for the waiver of fee and assessment increases.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To provide necessary revenue increases to support the division.

Process for Developing New Rule: Consultation with stakeholders.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Parker Cann, Director of Credit Unions, 210 11th Street S.W., Room 300, P.O. Box 41200, Olympia, WA 98504, phone (360) 902-8778, fax (360) 704-6978, e-mail pcann@dfi.wa.gov, at or before any public hearing held on the rule.

January 24, 2001  
 John L. Bley  
 Director

**WSR 01-03-147**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
 [Filed January 24, 2001, 9:48 a.m.]

Subject of Possible Rule Making: Increasing fees and assessments of the Division of Consumer Services: Providing for an automatic annual increase in fee and assessment levels, up to the "fiscal growth factor" under chapter 43.135 RCW; allowing for the waiver of fee and assessment increases.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.44.081, 18.44.091, 18.44.121, 18.44.410, 19.146.223, 19.146.225, 19.146.228, 19.146.265, 31.04.045, 31.04.085, 31.04.165, 31.45.030, 31.45.050, 43.320.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To provide necessary revenue increases to support the division.

Process for Developing New Rule: Consultation with stakeholders.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mark Thomson, Director of Consumer Services, 210 11th Street S.W., Room 300, P.O. Box 41200, Olympia, WA 98504, phone (360) 902-8787, fax (360) 704-6987, e-mail mthomson@dfi.wa.gov, at or before any public hearing held on the rule.

January 24, 2001  
 John L. Bley  
 Director

**WSR 01-03-156**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed January 24, 2001, 11:17 a.m.]

Subject of Possible Rule Making: WAC 296-30-130 How are death benefits paid to a survivor(s) receiving public or private death benefits?

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 7.68.030, 7.68.070, 7.68.130, 51.32.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Based on a recent Supreme Court decision, *Sebastian v. Department of Labor and Industries*, No. 68228-3 (Slip Op., November 2, 2000) this rule will need to be amended to show how lump sum survivor benefits will be paid when reduced by other insurance benefits. Previously the department paid until the combined benefits reached the lump sum amount. Under the Sebastian decision the department will continue benefits until the amount paid by the department equals the lump sum amount.

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

Process for Developing New Rule: Amended to comply with Supreme Court decision.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Cletus Nnanabu, CVC Program Manager, P.O. Box 44520, Olympia, WA 98504-4520, phone (360) 902-5340, fax (360) 902-5333, e-mail nnan235@lni.wa.gov. Other opportunities to comment: Public hearing (to be scheduled).

January 24, 2001

Gary Moore

Director

### WSR 01-03-157

#### PREPROPOSAL STATEMENT OF INQUIRY

#### DEPARTMENT OF LABOR AND INDUSTRIES

[Filed January 24, 2001, 11:18 a.m.]

**Subject of Possible Rule Making:** Chapter 296-17 WAC, Workers' compensation general reporting and classification rules.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 51.16.035 and 51.04.020(1).

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Labor and industries is required by RCW 51.16.035 to establish and maintain a workers' compensation insurance classification plan that classifies all occupations or industries within the state and sets basic rates of premium for these classifications that are distributed fairly. The department has conducted a review of various classifications and determined that certain rules are in need of revision. The department will work with industry representatives to help determine classification guidelines and continue rewriting rules to provide greater clarity.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** No other state, local, or federal agency regulates this subject.

**Process for Developing New Rule:** Labor and industries will solicit input from the business community through mail surveys, focus meetings and informal public meetings.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Labor and industries will notify businesses by mail when focus and/or informal public meetings have been scheduled. Persons interested in participating in preliminary meetings can contact Ken Woehl or Bill Moomau of the classification services unit at (360) 902-4776.

January 24, 2001

Gary Moore

Director

### WSR 01-03-159

#### PREPROPOSAL STATEMENT OF INQUIRY PUBLIC DISCLOSURE COMMISSION

[Filed January 24, 2001, 11:22 a.m.]

**Subject of Possible Rule Making:** WAC 390-16-111 Abbreviated campaign reporting—Special fund raising events.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 42.17.370(1).

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** WAC 390-16-111 sets the criteria for fundraising events, including dollar thresholds, by candidates and committees using abbreviated reporting. The dollar thresholds were last changed in 1986.

The commission will consider whether to adjust from \$200 to \$300 the maximum aggregate amount that can be accepted from any one contributor at a fundraising event.

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

**Process for Developing New Rule:** At its meeting on February 27, 2001, the commission is expected to discuss whether to move forward with possible rule making on amending WAC 390-16-111. Public comment will be welcome at this meeting. Interested persons are invited to submit written comments by February 26, 2001, to Doug Ellis, Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908. Written comments received by Monday, February 19, 2001, will be provided to commissioners in advance of the meeting.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting the Public Disclosure Commission, Director of Public Outreach, Doug Ellis, P.O. Box 40908, Olympia, WA 98504-0908, phone (360) 664-2735, toll free 1-877-601-2828, e-mail dellis@pdc.wa.gov. A public hearing on this matter may occur on April 24, 2001.

January 24, 2001

Vicki Rippie

Executive Director

### WSR 01-03-160

#### PREPROPOSAL STATEMENT OF INQUIRY PUBLIC DISCLOSURE COMMISSION

[Filed January 24, 2001, 11:23 a.m.]

**Subject of Possible Rule Making:** WAC 390-24-200 Descriptions of real property.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 42.17.370(1).

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** WAC 390-24-200 outlines what is required in reporting real property on the personal financial affairs statement (PDC form F-1). Currently, the rule requires that the street address be listed for each parcel, if there is a street address.

The commission will consider whether to make the listing of the street address as one of the options for reporting real property. However, using the street address would not be mandatory. The other options would be the assessor's parcel number, the abbreviated legal description appearing on property tax statements, or the complete legal description.

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

Process for Developing New Rule: At its meeting on February 27, 2001, the commission is expected to discuss whether to move forward with a rule amendment for WAC 390-24-200. Public comment will be welcome at this meeting. Interested persons are invited to submit written comments by February 26, 2001, to Doug Ellis, Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908. Written comments received by Monday, February 19, 2001, will be provided to commissioners in advance of the meeting.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting the Public Disclosure Commission, Director of Public Outreach, Doug Ellis, P.O. Box 40908, Olympia, WA 98504-0908, phone (360) 664-2735, toll free 1-877-601-2828, e-mail dellis@pdc.wa.gov. A public hearing on this matter may occur on April 24, 2001.

January 24, 2001  
Vicki Rippie  
Executive Director

### WSR 01-03-161

#### PREPROPOSAL STATEMENT OF INQUIRY PUBLIC DISCLOSURE COMMISSION

[Filed January 24, 2001, 11:24 a.m.]

Subject of Possible Rule Making: WAC 390-16-105 Abbreviated campaign reporting—Eligibility.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WAC 390-16-105 outlines the circumstances and dollar thresholds under which a candidate and/or political committee is eligible to use the abbreviated campaign reporting option. The dollar thresholds were last changed in 1986.

The commission will consider whether to adjust the abbreviated reporting dollar thresholds using the implicit price deflator, increasing the dollar amount from \$2,000 to \$3,000 and increasing from \$200 to \$300 the maximum aggregate amount that can be accepted from any one contributor.

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

Process for Developing New Rule: At its meeting on February 27, 2001, the commission is expected to discuss whether to move forward with possible rule making on amending WAC 390-16-105. Public comment will be welcome at this meeting. Interested persons are invited to submit

written comments by February 26, 2001, to Doug Ellis, Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908. Written comments received by Monday, February 19, 2001, will be provided to commissioners in advance of the meeting.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting the Public Disclosure Commission, Director of Public Outreach, Doug Ellis, P.O. Box 40908, Olympia, WA 98504-0908, phone (360) 664-2735, toll free 1-877-601-2828, e-mail dellis@pdc.wa.gov. A public hearing on this matter may occur on April 24, 2001.

January 24, 2001  
Vicki Rippie  
Executive Director

### WSR 01-03-162

#### PREPROPOSAL STATEMENT OF INQUIRY PUBLIC DISCLOSURE COMMISSION

[Filed January 24, 2001, 11:24 a.m.]

Subject of Possible Rule Making: WAC 390-16-150 Mini campaign reporting.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WAC 390-16-150 outlines the circumstances and dollar thresholds under which a candidate is eligible to use the mini campaign reporting option. The dollar thresholds were last changed in 1986.

The commission will consider whether to adjust the mini reporting dollar thresholds from \$500 to as much as \$1,000 and increasing from \$200 to \$300 the maximum aggregate amount that can be accepted from any one contributor.

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

Process for Developing New Rule: At its meeting on February 27, 2001, the commission is expected to discuss whether to move forward with possible rule making on amending WAC 390-16-150. Public comment will be welcome at this meeting. Interested persons are invited to submit written comments by February 26, 2001, to Doug Ellis, Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908. Written comments received by Monday, February 19, 2001, will be provided to commissioners in advance of the meeting.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting the Public Disclosure Commission, Director of Public Outreach, Doug Ellis, P.O. Box 40908, Olympia, WA 98504-0908, phone (360) 664-2735, toll free 1-877-601-2828, e-mail dellis@pdc.wa.gov. A public hearing on this matter may occur on April 24, 2001.

January 24, 2001  
Vicki Rippie  
Executive Director

**WSR 01-03-163**

**PREPROPOSAL STATEMENT OF INQUIRY  
PUBLIC DISCLOSURE COMMISSION**

[Filed January 24, 2001, 11:25 a.m.]

Subject of Possible Rule Making: WAC 390-16-012 Forms—Registration statement for candidates.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WAC 390-16-012 is the official form providing the statement of organization by candidates.

The commission will consider whether to change the instructional language provided for candidates selecting the mini reporting or abbreviated reporting option. New language would indicate an increase in the threshold limits from \$500 to as much as \$1,000 for mini reporting and from \$2,000 to \$3,000 for abbreviated reporting. New language would also increase from \$200 to \$300 the maximum aggregate amount that can be accepted from any one contributor.

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

Process for Developing New Rule: At its meeting on February 27, 2001, the commission is expected to discuss whether to move forward with a rule amendment of WAC 390-16-012. Public comment will be welcome at this meeting. Interested persons are invited to submit written comments by February 26, 2001, to Doug Ellis, Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908. Written comments received by Monday, February 19, 2001, will be provided to commissioners in advance of the meeting.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting the Public Disclosure Commission, Director of Public Outreach, Doug Ellis, P.O. Box 40908, Olympia, WA 98504-0908, phone (360) 664-2735, toll free 1-877-601-2828, e-mail dellis@pdc.wa.gov. A public hearing on this matter may occur on April 24, 2001.

January 24, 2001

Vicki Rippie  
Executive Director

The commission will consider whether to change the instructional language provided for political committees selecting the abbreviated reporting option. New language would indicate an increase in the threshold limits from \$2,000 to \$3,000 and from \$200 to \$300 the maximum aggregate amount that can be accepted from any one contributor.

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

Process for Developing New Rule: At its meeting on February 27, 2001, the commission is expected to discuss whether to move forward with a rule amendment of WAC 390-16-011. Public comment will be welcome at this meeting. Interested persons are invited to submit written comments by February 26, 2001, to Doug Ellis, Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908. Written comments received by Monday, February 19, 2001, will be provided to commissioners in advance of the meeting.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting the Public Disclosure Commission, Director of Public Outreach, Doug Ellis, P.O. Box 40908, Olympia, WA 98504-0908, phone (360) 664-2735, toll free 1-877-601-2828, e-mail dellis@pdc.wa.gov. A public hearing on this matter may occur on April 24, 2001.

January 24, 2001

Vicki Rippie  
Executive Director

**WSR 01-03-164**

**PREPROPOSAL STATEMENT OF INQUIRY  
PUBLIC DISCLOSURE COMMISSION**

[Filed January 24, 2001, 11:26 a.m.]

Subject of Possible Rule Making: WAC 390-16-011 Forms—Registration statement for political committees.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.17.370(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WAC 390-16-011 is the official form providing the statement of organization political committees.

**NO EXPEDITED REPEALS FILED IN THIS ISSUE**

**EXPEDITED REPEAL**



**WSR 01-03-001****WITHDRAWAL OF PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

[Filed January 3, 2001, 3:12 p.m.]

Please withdraw WAC 388-86-100 from WSR 00-13-008 filed on June 9, 2000. Please call 664-6094 if you need more information.

Kelly Cooper  
Rules Coordinator

**WSR 01-03-015****WITHDRAWAL OF PROPOSED RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Filed January 5, 2001, 2:05 p.m.]

The Washington State Department of Fish and Wildlife withdraws proposed amendments to WAC 220-33-040, filed in WSR 00-14-036, and continued in WSR 00-17-094 and 01-02-014.

Evan Jacoby  
Rules Coordinator

**WSR 01-03-017****PROPOSED RULES  
DEPARTMENT OF LICENSING**

[Filed January 5, 2001, 2:18 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-07-105.

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

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

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

Statutory Authority for Adoption: RCW 88.02.100 and 88.02.070.

Summary: Amending WAC 308-93-060, 308-93-069, 308-93-070, 308-93-071, 308-93-078, 308-93-285, 308-93-350, 308-93-360 and 308-93-640; and repealing WAC 308-93-073.

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

Name of Agency Personnel Responsible for Drafting: Katherine Iyall Vasquez, 1125 Washington Street S.E., Olympia, (360) 902-3718; Implementation and Enforcement: Eric Andersen, 1125 Washington Street S.E., Olympia, (360) 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 February 28, 2001, at 10:30 a.m.

Assistance for Persons with Disabilities: Contact Katherine Iyall Vasquez by February 27, 2001, TTY (360) 664-8885, or (360) 902-3718.

Submit Written Comments to: Katherine Iyall Vasquez, Rules Manager, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, fax (360) 664-0831, by February 27, 2001.

Date of Intended Adoption: March 27, 2001.

January 5, 2001

Deborah McCurley, Administrator  
Title and Registration Services

AMENDATORY SECTION (Amending WSR 98-16-030, filed 7/29/98, effective 8/29/98)

**WAC 308-93-060 Registration period. (1) What is the length of a vessel registration period?** The vessel registration period is July 1 of the current year through June 30 of the following year for purposes of chapter 88.02 RCW.

Any vessels registered for the first time in Washington will be assessed the registration fee for the registration period in which the vessel is registered. In addition, excise tax in the amount prescribed in chapter 82.49 RCW will be assessed through the current registration period.

**(2) How will my excise tax be calculated if I purchase or transfer a vessel in a month other than July?** When registering a vessel in Washington for the first time and assigning a registration period of ~~((eleven))~~ less than twelve months ~~((or less))~~ or transferring ownership of a vessel for which the registration has expired, the annual excise tax shall be reduced by one-twelfth for each full month of the registration period ~~((they))~~ you did not own or possess the vessel. The registration fee ~~((shall))~~ will not be ~~((abated))~~ reduced. Excise tax on renewals will be assessed twelve months of excise tax.

AMENDATORY SECTION (Amending WSR 98-16-030, filed 7/29/98, effective 8/29/98)

**WAC 308-93-069 Application for certificate of ownership**~~((registration))~~—**Accompanied by.** ~~((Vessel owners shall submit with their application for certificate of ownership or registration all proper fees and excise tax and the following documentation when appropriate:~~

~~((1) Excise exemption affidavit; and/or~~

~~((2) A copy of the bill of sale or sales agreement; and/or~~

- (3) ~~Declaration of value form; and/or~~  
 (4) ~~Previous ownership document properly released; and/or~~  
 (5) ~~Proof of sales tax paid; and/or~~  
 (6) ~~Manufacturer's statement of origin, factory invoice, or carpenter certificate; and/or~~  
 (7) ~~Release of interest form; and/or~~  
 (8) ~~Other verification of ownership approved by the department to include:~~

(a) ~~A judgment from a district or superior court of any county of this state awarding ownership; or~~

(b) ~~Document from an involuntary divestiture sale or auction; and/or~~

(9) ~~Copy of certificate of documentation of vessel issued by the United States Coast Guard.~~

(10) ~~Upon application for a vessel certificate of ownership an authorized agent or employee shall verify the application and supporting documents to ensure accuracy. If all requirements are not met, an authorized agent or employee shall refuse to accept the application.~~

(11) ~~When the application has been received, the department may recheck the application. If there is an error which precludes issuance of the certificate of ownership the department shall delay issuance of certificate of ownership until proper documentation has been received.))~~ **(1) What documentation must accompany my application for certificate of ownership for my vessel?** Vessel owners must submit with their application for certificate of ownership all proper fees and excise tax and the following documentation when appropriate:

(a) New vessels:

(i) Application for certificate of ownership to a vessel never before licensed or titled shall be accompanied by a manufacturer's statement of origin, carpenter's certificate, or a copy of the factory invoice.

(ii) The manufacturer's statement of origin, carpenter's certificate, or factory invoice must reflect the model year, make, length and hull identification number of the vessel.

(iii) The department shall not accept any manufacturer's statement of origin, carpenter's certificate, or factory invoice for the issuance of a certificate of ownership unless all persons named on the manufacturer's statement of origin, including dealers, have released or assigned their interest thereon, or on a release of interest form approved by the department.

(iv) Dealer-to-dealer transfers may be accomplished either by appropriate endorsement of the manufacturer's statement of origin, carpenter's certificate, or factory invoice, or release of interest form approved by the department. A complete chain of ownership shall be reflected from the original dealer named on the manufacturer's statement of origin to the retail selling dealer making the application.

(v) A copy of the factory invoice may be used in lieu of the manufacturer's statement of origin or carpenter's certificate only when such documents are not available and obtaining a replacement from the manufacturer would cause an undue amount of delay in titling the vessel. A certificate of fact describing why the statement of origin or carpenter's certificate is not available shall be accompanied by the photo-

copy of the factory invoice and any necessary releases of interest on a form approved by the department.

(b) Vessels with existing certificate of ownership from a foreign titling jurisdiction:

(i) Excise exemption affidavit; and/or

(ii) A copy of the bill of sale or sales agreement; and/or

(iii) Declaration of value form; and/or

(iv) Previous ownership document properly released; and/or

(v) Proof of sales tax paid; and/or

(vi) Release of interest; and/or

(vii) Other verification of ownership approved by the department to include:

(A) A judgment from a district or superior court of any county of this state awarding ownership; or

(B) Document from an involuntary divestiture sale or auction; and/or

(C) Copy of certificate of documentation of vessel issued by the United States Coast Guard.

(c) Vessels without existing certificate of ownership or from a nontitling jurisdiction:

(i) Excise exemption affidavit; and/or

(ii) A copy of the bill of sale or sales agreement; and/or

(iii) Declaration of value form; and/or

(iv) Previous ownership document properly released; and/or

(v) The registration, if it is from a nontitle state; and/or

(vi) Proof of sales tax paid; and/or

(vii) Manufacturer's statement of origin, factory invoice, or carpenter's certificate; and/or

(viii) An affidavit in lieu of title; and/or

(ix) Release of interest; and/or

(x) Other verification of ownership approved by the department to include:

(A) A judgment from a district or superior court of any county of this state awarding ownership; or

(B) Document from an involuntary divestiture sale or auction; and/or

(C) Copy of certificate of documentation of vessel issued by the United States Coast Guard; and/or

(D) An affidavit certifying when and where the vessel was acquired or brought into the state.

**(2) Will the department accept an application if any information is found to be inaccurate?** Upon application for a vessel certificate of ownership an authorized agent or employee must verify the application and supporting documents to ensure accuracy. If all requirements are not met, an authorized agent or employee shall refuse to accept the application.

**AMENDATORY SECTION** (Amending WSR 98-16-030, filed 7/29/98, effective 8/29/98)

**WAC 308-93-070 Application for certificate of ownership/registration((—Contents)).** (1) ((When Washington becomes the new state of principal use, Washington shall recognize the validity of a vessel number issued by any other issuing authority for a period of sixty days before requiring numbering in this state.



(2) Vessel owners applying for certificate of ownership or registration of a vessel shall submit an application, which includes:

- (a) Expiration date of the certificate of registration;
- (b) The name of each owner of the vessel and if the vessel is subject to security interest, the name of each secured party;
- (c) The department assigned customer account number for each owner of the vessel including secured parties if available;
- (d) The address at which one of the owners regularly receives mail;
- (e) The mailing address of the first secured party;
- (f) The Washington registration number if assigned;
- (g) Make and model year;
- (h) Length of vessel;
- (i) Type of power (gasoline, diesel, etc.);
- (j) Primary use (commercial, pleasure, etc.);
- (k) Primary method of propulsion (inboard, sail, etc.);
- (l) Type of vessel (runabout, cabin, etc.);
- (m) Primary vessel construction (fiberglass, wood, etc.);
- (n) County of moorage;
- (o) Hull identification number, if one has been assigned;
- (p) Latest purchase price and purchase year or, if the vessel was not acquired by purchase, a declaration of value and year of declaration. For the purposes of this section, purchase price or declared value includes the vessel, vessel motor, or engine, and all other equipment and accessories, excluding a boat trailer, purchased or acquired in a single transaction;
- (q) United States Coast Guard document number, if applicable.

**(3)) (1) When am I required to register my vessel in Washington?** Current foreign registration will be recognized for a period of sixty days. On or before the sixty-first day, if Washington is to be the principal state of use, you must apply for a Washington state certificate of ownership and/or registration.

**(2) What information must be supplied on an application to obtain a Washington vessel certificate of ownership and/or registration?** Vessel owners applying for certificate of ownership and/or registration of a vessel must submit an application, which includes:

- (a) Expiration date of the certificate of registration;
- (b) The name of each owner of the vessel and if the vessel is subject to security interest, the name of each secured party;
- (c) The department-assigned customer account number for each owner of the vessel including secured parties if available;
- (d) The address at which one of the owners regularly receives mail;
- (e) The mailing address of the first secured party;
- (f) The Washington registration number as assigned;
- (g) Make and model year;
- (h) Length of vessel;
- (i) Type of power (gasoline, diesel, etc.);
- (j) Primary use (commercial, pleasure, etc.);
- (k) Primary method of propulsion (inboard, sail, etc.);
- (l) Type of vessel (runabout, cabin, etc.);

- (m) Primary vessel construction (fiberglass, wood, etc.);
- (n) County of moorage;
- (o) Hull identification number, if one has been assigned;
- (p) Latest purchase price and purchase year or, if the vessel was not acquired by purchase, a declaration of value and year of declaration.

For the purposes of this section, purchase price or declared value includes the vessel, vessel motor, or engine, and all other equipment and accessories, excluding a boat trailer, purchased or acquired in a single transaction;

(q) United States Coast Guard document number, if applicable.

**(3) If my vessel is homemade, what information must be supplied on an application for Washington certificate of ownership?** In addition to the information listed above in subsection (2) of this section, upon original application for certificate of ownership~~((f))~~ and/or registration of a homemade vessel, the owner shall complete and sign a declaration of value form. The owner's signature shall be notarized/certified in accordance with WAC 308-93-470.

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 WSR 98-16-030, filed 7/29/98, effective 8/29/98)

**WAC 308-93-071 Class "A" and Class "B" certificate of ownership. Is there more than one class of certificate of ownership for my vessel?** From June 30, 1985, through June 30, 1990, there were two classes of vessel certificate of ownership: Class "A" and Class "B."

Effective July 1, 1990, the "A" and "B" classifications of vessel certificate of ownership were discontinued. All vessel certificate of ownership, regardless of any classification previously assigned are considered to be exclusive evidence of ownership unless a person can provide sufficient evidence the certificate of ownership was issued in error or is invalid for some other reason.

**AMENDATORY SECTION** (Amending WSR 98-16-030, filed 7/29/98, effective 8/29/98)

**WAC 308-93-078 Temporary use of an unregistered vessel. ((A purchaser from a private party of)) May a vessel be operated on the waters of this state if it is not registered?** An unregistered vessel may ~~((operate the vessel))~~ be operated on ~~((Washington))~~ the waters of this state for fifteen consecutive days from the date of purchase using the notarized bill of sale in lieu of a registration certificate. The notarized bill of sale shall be carried on the vessel and contain:

- (1) The name and address of the purchaser;
- (2) The model year, make, and hull identification number of the vessel;
- (3) The date of sale; and
- (4) The name, address and signature of the seller.

**AMENDATORY SECTION** (Amending WSR 98-16-030, filed 7/29/98, effective 8/29/98)

**WAC 308-93-285 Vessel length measurement.** (1) **How is the length of my vessel calculated?** The overall length of a vessel first provided by the owner on application for certificate of ownership (~~shall~~) **must** be rounded down to the nearest whole foot. Vessel measurement (~~shall~~) **must** be from the tip of the bow to the stern of the vessel down the centerline but not including boomkins, swim ladders, outboard engines, or other extremities.

(2) **How do I change the recorded length of my vessel if incorrect?** Changing the recorded vessel length, except when incorrectly entered by the department requires:

(a) Verification of remeasurement (~~on official letterhead document including the vessel description and signed by a representative of~~) **from:**

- (i) A law enforcement agency; or
- (ii) A port agency; or
- (iii) The United States Coast Guard; or
- (iv) Authorized representatives of the department.

(b) Documentation from the vessel manufacturer providing the correct length for that model vessel.

(c) **Verification must be on agency letterhead and include the vessel description and signature of an authorized representative.**

**AMENDATORY SECTION** (Amending WSR 98-16-030, filed 7/29/98, effective 8/29/98)

**WAC 308-93-350 Erasures and alterations and incorrect information.** (1) **Will the department accept an application for certificate of ownership if the certificate of ownership or supporting documents have been altered?** The department may refuse to accept any certificate of ownership when ownership or vessel information has been altered. A replacement ownership document may be required.

(2) **What does the department require when a certificate of ownership, an application for certificate of ownership or a supporting document has been altered?**

(a) The department may require an affidavit explaining any erasure or alteration on the application, certificate of ownership, or any supporting documentation.

~~((3))~~ (b) The department may require a notarized/certified release of interest when:

~~((a))~~ (i) A signature or name that has been altered or erased appears on an application; or

~~((b))~~ (ii) A security interest is named to be shown on the new certificate of ownership and the applicant claims there is no lien; or

~~((c))~~ (iii) A security interest is shown incorrectly or is altered on the application for certificate of ownership. In lieu of a release of interest, Washington licensed vessel dealers may attach an affidavit explaining the error in the security interest.

(c) **If an erasure has been made on a title, a notarized/certified affidavit must be attached. The affidavit must state why and by whom the erasure was made. The one whose**

**name was erased must sign a notarized/certified release of interest.**

(d) **If a name is erroneously shown on the title as the purchaser, the purchaser must have either a notarized/certified release of interest from the erroneously named purchaser or a notarized/certified affidavit signed by the owner of record that the sale was not completed.**

**AMENDATORY SECTION** (Amending WSR 98-16-030, filed 7/29/98, effective 8/29/98)

**WAC 308-93-360 Application for certificate of ownership required. When is a certificate of ownership required?** An application for certificate of ownership is required when:

(1) A person purchases a new vessel unless otherwise exempt from chapter 88.02 RCW.

(2) There is a change of ownership due to:

- (a) Sale;
- (b) Gift;
- (c) Inheritance;
- (d) Trade;

(e) Addition or deletion of an owner;

(f) Proprietorship or partnership forming a corporation, whether or not the business name is changing; or

(g) Proprietorship or partnership purchasing a corporation which will no longer be operated as a corporation, whether or not the business name is changed.

(3) There is a name change of:

- (a) The owner;
- (b) The secured party; or

(c) A business entity as shown on the current certificate of ownership.

(4) There is no change in the owner of the vessel but the certificate of ownership needs to be reissued because:

(a) A lien has been satisfied and the lien holder's name needs to be removed;

(b) A lien holder's name needs to be added. If a secondary lien holder is being added, the address of only the primary lien holder will be recorded;

(c) There is a change of lien holders;

(d) There has been a structural change in the vessel that changes the physical description of the vessel on the current certificate of ownership; or

(e) The vessel hull identification number has been altered, or removed, or needs to be corrected on the vessel or on the certificate of ownership.

**AMENDATORY SECTION** (Amending WSR 98-16-029, filed 7/29/98, effective 7/30/98)

**WAC 308-93-640 Reciprocity.** ~~((1) A vessel owned by a resident of a foreign state which is already covered by a number in full force and effect issued to it pursuant to federal laws or a numbering system of such state shall be exempt from registration requirements for a period of sixty days in any twelve-month period but only)~~ **Is my foreign registration valid in Washington? Current foreign registration will be recognized for a period of sixty days to the extent a similar**

reciprocity is granted for vessels registered in the state of Washington. However, on or before the sixty-first day of use in this state, the owner of a foreign vessel (~~shall~~) must obtain a two-month vessel identification document issued by the department, its agents or subagents in accordance with WAC 308-93-055 if the state of principal use is not changing to Washington and the vessel owner wishes to keep the vessel located on Washington waters.

~~((2) When a vessel is removed to the state of Washington as a new state of principal use, Washington shall recognize the validity of a number awarded by any other issuing authority for a period of at least sixty days before requiring numbering in this state.))~~

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-93-073            New vessels.

**WSR 01-03-028**  
**PROPOSED RULES**  
**SPOKANE COUNTY AIR**  
**POLLUTION CONTROL AUTHORITY**

[Filed January 8, 2001, 9:28 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under 70.94.141(1).

Title of Rule: 1. SCAPCA Regulation I, Article VI, Section 6.01; and 2. SCAPCA Regulation I, Article X, Section 10.13.

Purpose: 1. To ban outdoor burning where nonburning disposal alternatives exist.

2. Establish fees for outdoor burning as required by WAC 173-425-060(3).

Statutory Authority for Adoption: RCW 70.94.141, 70.94.380(2), 70.94.755, chapter 173-425 WAC.

Statute Being Implemented: RCW 70.94.755, 70.94.775 - 70.94.780, chapter 173-425 WAC.

Summary: 1. The amended regulations ban outdoor burning in Spokane County, with some exceptions.

2. The [no further information supplied by agency].

Reasons Supporting Proposal: SCAPCA's Regulation I is being revised to meet the mandates in chapter 173-425 WAC, amended in April 2000.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Matt Holmquist, 1101 West College, #403, Spokane, WA 99201, (509) 477-4727.

Name of Proponent: Spokane County Air Pollution Control Authority, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Spokane County Air Pollution Control Authority (SCAPCA) is proposing amendments to SCAPCA Regulation I, Article VI, Section 6.01 and proposing to add Section 10.13 in response to the amendments made to chapter

173-425 WAC. On November 2, 2000, SCAPCA's board of directors instructed staff to draft a regulation to take to public hearing, that among other things, would ban many types of outdoor burning in Spokane County after April 30, 2001. The ban does not apply to silvicultural burning or agricultural burning.

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

Explanation of Rule, its Purpose, and Anticipated Effects: (1) Outdoor burning would be banned in all of Spokane County after April 30, 2001.

The ban applies to residential burning, meaning the outdoor burning of dry garden trimmings, tree clippings, lawn rakings, dry leaves and needles originating on the maintained area of residential property (i.e., lands immediately adjacent and in close proximity to a human dwelling) and burned on such lands by the property owner and/or any other responsible person.

The ban applies to land clearing burning, meaning outdoor burning of trees, stumps, shrubbery, or other natural vegetation from land clearing projects (i.e., project that clear the land surface so it can be developed, used for a different purpose, or left unused).

There are exceptions to the outdoor burning ban as provided for in Section 6.01.E.1 & 2. Some of the exceptions that are available include: Fire extinguisher training fires, structural fire training fires, social event fires, residential land clearing fires on small portions of property, burning debris from silvicultural-to-agricultural land conversions, fires for improving and maintaining fire dependent ecosystems, Indian ceremonial fires, recreational fires, aircraft rescue training fires, forest fire instruction fires, silvicultural burning, and agricultural burning.

(2) The regulation is intended to recover the costs of administering and enforcing a permit program for fire fighting instruction fires as required per WAC 173-425-060(3).

Proposal Changes the Following Existing Rules: (1) Under current rules, open burning is prohibited (a) within the No-Burn Area, as defined by resolution, (b) within any part of a nonattainment area that is not within an open burning phase-out area, and (c) after December 31, 2000, within an urban growth area or any incorporated city of [or] town with a population of 10,000 or more.

(2) There is currently no permit fee for fire fighting instruction fires.

No small business economic impact statement has been prepared under chapter 19.85 RCW. SCAPCA is not required under chapter 19.85 RCW to file small business economic impact statements.

RCW 34.05.328 does not apply to this rule adoption. This is a local agency rule and RCW 34.05.328 has not been made voluntarily applicable to this rule.

Hearing Location: Spokane County Public Works Building, 1206 West Broadway, Hearing Room, Lower Level, Spokane, WA 99201, on March 1, 2001, at 9:00 a.m.

Submit Written Comments to: Matt Holmquist, Spokane County Air Pollution Control Authority, 1101 West College, Suite #403, Spokane, WA 99201, fax (509) 477-6828, by February 27, 2001.

PROPOSED

Date of Intended Adoption: March 1, 2001.

January 4, 2001

Matt Holmquist

Compliance Administrator

## EMISSIONS PROHIBITED

### AMENDATORY SECTION

#### SECTION 6.01 ((OPEN)) OUTDOOR BURNING

A. Purpose. This Section establishes controls for ((open)) outdoor burning in Spokane County in order to:

1. Reduce ((open)) outdoor burning to the greatest extent practical, consistent with the ((policy)) laws and regulations of the State of Washington.

2. Minimize the impact of emissions from ((open)) outdoor burning by burning only when weather and ventilation conditions are favorable.

3. Define conditions under which ((open)) outdoor burning may be conducted.

4. Encourage the development and specify the use of ((alternate methods of disposal of combustible waste materials)) reasonable alternatives to outdoor burning.

5. Geographically limit ((open)) outdoor burning in order to assure continued attainment of the National Ambient Air Quality Standards for carbon monoxide and fine particulate matter (PM10).

B. Applicability. This Section applies to ((open)) outdoor burning in all areas of Spokane County unless exempted in Section 6.01.E. This Section does not apply to Silvicultural Burning (see Chapter 332-24 WAC) or to Agricultural Burning (see Chapter 173-430).

C. Definitions. Unless a different meaning is clearly required by context, words and phrases used in this Section shall have the following meaning:

1. Agricultural Burning means burning of vegetative debris from an agricultural operation necessary for disease or pest control, necessary for crop propagation and/or crop rotation, necessary to destroy weeds or crop residue along farm fence rows, irrigation ditches, or farm drainage ditches, or where identified as a best management practice by the agricultural burning practices and research task force established in ((Chapter)) RCW 70.94.650 ((RCW)) or other authoritative source on agricultural practices.

2. Authority means the Spokane County Air Pollution Control Authority.

~~((3. Ceremonial Fire means a fire associated with a Native American ceremony or ritual.))~~

3. Construction/Demolition Debris means any material manufactured for or resulting from the construction, renovation, or demolition of buildings, roads, and/or other man-made structures.

4. Episode means a period when a forecast, alert, warning, or emergency air pollution stage is declared, as ~~((given in Chapter 70.94.715 RCW))~~ provided in Chapter 173-435 WAC.

5. Fire Fighting Instruction Fire means a fire for instruction in methods of fire fighting, including, but not limited to,

training to fight structural fires, aircraft crash rescue fires, and forest fires.

6((5)). Impaired Air Quality, for purposes of ((open)) outdoor burning, means a condition declared by the Authority when meteorological conditions are conducive to an accumulation of air contaminants, concurrent with at least one of the following criteria:

a. Particulates ((which)) that are ten microns or smaller in diameter (PM10) are measured at any location inside Spokane County at or above an ambient level of ((seventy-five)) sixty micrograms per cubic meter of air, measured on a 24-hour average, by a method which has been determined, by Ecology or the Authority, to have a reliable correlation to the federal reference method, CFR Title 40 Part 50 Appendix J, or equivalent.

b. Carbon monoxide is measured at any location inside Spokane County at or above an ambient level of eight parts of contaminant per million parts of air by volume (ppm), measured on an eight-hour average by a method which has been determined, by Ecology or the Authority, to have a reliable correlation to the federal reference method, CFR Title 40 Part 50 Appendix C, or equivalent.

c. Particulates that are two and one-half microns or smaller in diameter (PM2.5) are measured at any location inside Spokane County at or above an ambient level of 15 micrograms per cubic meter of air, measured on a 24-hour average, by a method which has been determined, by Ecology or the Authority, to have a reliable correlation to the federal reference method, CFR Title 40 Part 50 Appendix L, or equivalent.

d((e)). Air contaminant levels reach or exceed other limits, established by Ecology pursuant to RCW 70.94.331 ((Chapter 173-425-030 (5)(b) WAC, by resolution of the Board of Directors of the Authority)).

7. Indian Ceremonial Fire means a fire necessary for Native American ceremonies (i.e., conducted by and for Native Americans) if part of a religious ritual.

8((6)). Land Clearing Burning means ((removing trees, shrubbery, or other natural vegetation from a plot of land)) outdoor burning of trees, stumps, shrubbery, or other natural vegetation from land clearing projects (i.e., projects that clear the land surface so it can be developed, used for a different purpose, or left unused).

9. Natural vegetation means unprocessed plant material from herbs, shrubbery, and trees, including grass, weeds, leaves, clippings, prunings, brush, branches, roots, stumps, and trunk wood.

10((7)). Nonattainment Area means the Spokane County PM10 Nonattainment Area and the Spokane Urban Carbon Monoxide Nonattainment Area as defined in CFR Title 40, Part 81.

11((8)). Nuisance means an emission of smoke or other emissions from any ((open)) outdoor fire that unreasonably interferes with the use and enjoyment of property or public areas.

12. Other Outdoor Burning means outdoor burning other than agricultural burning, silvicultural burning, residential burning, land clearing burning, storm or flood debris burning, tumbleweed burning, weed abatement fires, fire fighting instruction fires, rare and endangered plant regeneration fires,

PROPOSED

Indian ceremonial fires, and recreational fires. It includes, but is not limited to, any outdoor burning necessary to protect public health and safety.

13((9)). (~~Open Burning or~~) Outdoor Burning or Open Burning means the combustion of material of any type in an open fire or in an outdoor container without providing for the control of combustion or the control of emissions from the combustion in a manner approved by the Authority. Outdoor burning means all types of outdoor burning except agricultural burning and silvicultural burning.

14((10)). Permitting Authority means the Spokane County Air Pollution Control Authority (Authority), or one or more of the following entities, whenever the Authority has delegated administration of the permitting program, pursuant to RCW 70.94.654, to one or more of the referenced entities, provided such delegation of authority has not been withdrawn: Spokane County, any fire ((department, any fire district)) protection agency within Spokane County, Department of Natural Resources, or the Spokane County Conservation District. ((whenever the referenced agency enters into a written agreement with the Authority to administer a permit program pursuant to Chapter 173 425 070 WAC.))

((11. ~~Phase-out Area~~ means any geographical area which is outside the No-Burn Area, as defined in Attachment A of Resolution 91-01 of the Authority, and inside the Spokane PM10 Nonattainment Area, as defined in CFR Title 40, Part 81.))

15((12)). Premises of a Residence means the real property immediately adjacent to the residence which is owned by the same person who owns the residence, and which is not devoted to agricultural or silvicultural use, other than yard and gardening activities connected with the residence.

16((13)). Prohibited Materials means garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, paper (other than what is necessary to start a fire), cardboard, treated wood, construction debris, demolition debris, metal or any substance (other than natural vegetation) ((which when burned)) that releases toxic emissions, dense smoke or obnoxious odors, when burned.

17((14)). Reasonable Alternative ~~(s) means disposal alternatives to open burning that cost less than eight dollars fifty cents per cubic yard (This amount may be adjusted periodically by policy decision of the Department of Ecology), or more costly disposal alternatives which have been deemed reasonable, on a case-by-case basis, by the Authority)~~ means a method for disposing of organic refuse (such as natural vegetation) that is available, reasonably economical, and less harmful to the environment than burning, including but not limited to, waste reduction, recycling, energy recovery or incineration, and landfill disposal.

18((15)). Recreational Fire means a small fire, limited to ((barbecues)) cooking fires and campfires, using charcoal, natural gas, propane, or clean, dry, natural firewood, and which occurs in designated areas on public lands or on private property. Fires used for debris disposal are not considered recreational fires.

19. Residential Burning means the outdoor burning of dry garden trimmings, tree clippings, lawn rakings, dry leaves and needles originating on the maintained area of residential property (i.e., lands immediately adjacent and in

close proximity to a human dwelling) and burned on such lands by the property owner and/or any other responsible person.

20((16)). Responsible Person means any person who has applied for and received a permit for outdoor burning, or any person allowing, igniting or attending to an ((open)) outdoor fire, or any person who owns or controls property on which an ((open)) outdoor fire occurs.

((17. Social Event means a public event or celebration officially sponsored by Spokane County or an incorporated city or town.))

21((18)). Silvicultural Burning means burning on unimproved land the Department of Natural Resources protects pursuant to ((Chapter)) RCW 70.94.030(20), 70.94.660, and 70.94.690 ((RCW)), and pursuant to Chapter 76.04 RCW.

22((19)). Small Fire means a fire generated by a pile of combustible material with dimensions no greater than ((four feet by four feet by three feet)) three feet in diameter by two feet in height.

23. Social Event means a public event or celebration officially sponsored by Spokane County or an incorporated city or town.

24((20)). Urban Growth Area means an area defined by ((Chapter)) RCW 36.70A.030 ((RCW)).

((21. Yard means a maintained area on residential property.))

((22. Yard and Garden Debris means dry garden trimmings, tree clippings, lawn rakings, dry leaves and needles generated from a residential yard or garden.))

D. Prohibitions. Except as provided in Section 6.01.E., no person shall practice or permit the practice of ((open)) outdoor burning in any of the following circumstances and locations: 1. Within ((the)) a No-Burn Area, as defined by resolution of the Board of Directors of the Authority.

((2. Within any part of a nonattainment area that is not within an open burning phase-out area).))

((3. After November 1, 1994, in any area where no permit program is being administered by a permitting authority.))

2((4)). ((Within any open burning phase-out area after the final phase-out date as approved by the Department of Ecology.)) After April 30, 2001, within Spokane County.

3((5)). After December 31, 2000, within any urban growth area having a population of 5,000 or more people, or within any incorporated city or town having a population of 10,000 or more people, or within any urban growth area contiguous with a nonattainment area or former nonattainment area. After April 30, 2001, within any urban growth area.

((6. Outside the period designated by the Authority or permitting authority for burning yard and garden debris.))

4((7)). When the materials to be burned include any prohibited materials.

5((8)). During an episode as declared by Ecology, ((or)) during ((impaired air quality)) Impaired Air Quality as declared by ((the Department of)) Ecology or the Authority for a defined geographical area or during a fire danger burn ban, as declared by an appropriate fire protection authority for a defined geographic area, unless that fire protection authority grants an exception.

~~6((9)). When the fire is larger than a small fire(~~(, unless a valid written permit has been issued by a permitting authority).~~)~~

~~7((10)). In or within 500 feet of forest slash(~~(, unless a written permit has been issued by the permitting authority).~~)~~

~~8((11)). When burning is for commercial purposes (i.e., when burning is not for residential purposes), other than silvicultural burning(~~(;) or agricultural burning(~~(, or burning of land clearing debris).~~)~~)~~

~~9((12)). Where the Authority, Department of Ecology, or permitting authority has determined that reasonable alternatives are available.~~

~~10((13)). When burning causes a nuisance, or when the Authority or permitting authority determines that the creation of a nuisance (~~(is the)~~) would likely result (~~((ef))~~) from burning.~~

11. When outdoor burning includes materials, other than charcoal, natural gas, propane, or clean, dry, natural firewood, that have been hauled from another property.

12. When more than one pile is burned at a time (i.e., each fire must be extinguished before lighting another).

E. Exceptions. Exceptions to Section 6.01.D shall be made as follows:

1. Exceptions that Require an Outdoor Burning Permit. The outdoor burning prohibitions in ((Subsections 1 through 7-ef)) Section 6.01.D ((shall not apply to the)) may be waived as indicated for the following types of fires if authorized by the Authority and a written permit has been issued by the Authority or permitting authority providing an exception:

a. When ordered by a duly authorized health officer, diseased animals and other infested material may be burned, as required, to keep the infestation from spreading. Such burning may be exempt from the prohibitions in Section 6.01.D.1-4, 6-9 and 11-12.

b. When ordered by a fire protection agency of jurisdiction, fires to dispose of materials presenting a danger to life, property, or public welfare may be burned. Such burning may be exempt from the prohibitions in Section 6.01.D.1-4, 6-9 and 11-12.

c. When authorized by a fire protection agency of jurisdiction, fires necessary for training, including military training, may be burned. Such burning may be exempt from the prohibitions in Section 6.01.D.1-4, 6-9 and 11-12.

d. Fire extinguisher training, consisting of short-duration fires for instruction on the proper use of hand-held fire extinguishers, may be exempt from the prohibitions in Section 6.01.D.1-4, 8-9 and 11-12. The requirements below must also be met.

(i) Flammable or combustible materials used during the fire extinguisher training shall be limited to:

(a) Less than 2 gallons of clean kerosene or diesel fuel oil per training exercise, provided that gasoline or gasoline mixed with diesel or kerosene may be used only by local fire departments, fire marshals, or fire districts;

(b) As much gaseous fuel (propane or natural gas) as required for the training exercise; or

(c) Less than 0.5 cubic yards of clean, solid combustible materials per training exercise. Examples of solid combustible materials are seasoned wood, untreated scrap lumber, and unused paper.

(ii) All training must be conducted by local fire officials or a qualified instructor. Instructor qualifications and a training plan must be available to the Authority upon request;

(iii) Prior to the training, the person(s) conducting the exercise must notify the local fire department, fire marshal, or fire district and must meet all applicable local ordinances and permitting requirements.

e. Structural fire training fires authorized by a fire protection agency that are located within urban growth areas may be exempt from Section 6.01.D.1-4, 6-8 and 12.

f((d)). When ordered by a fire protection agency of jurisdiction, fires to prevent or abate a fire hazard may be burned. Such burning may be exempt from the prohibitions in Section 6.01.D.1-4, 6-9 and 11-12.

g((e)). Fires set as part of a defined research project may be burned. Such burning may be exempt from the prohibitions in Section 6.01.D.1-4, 6-9 and 11-12.

h. A social event fire (i.e., a fire that is larger than a small fire that is part of a social event) sponsored by an incorporated city or town, provided the fire is not started an unreasonable length of time before nor continues an unreasonable length of time beyond the event. Such burning may be exempt from the prohibitions in Section 6.01.D.1-3, 6-9 and 11.

i. When permitted by the Authority or permitting authority, residential land clearing burning consisting of materials cleared from less than 1 acre of forested land on a 5 acre or larger parcel of land in non-commercial ownership may be exempt from Section 6.01.D.1-3, 6 and 12.

j. When permitted by the Authority or permitting authority, silvicultural-to-agricultural land conversions may be exempt from Section 6.01.D.1-3, 6 and 12.

k. Storm or flood debris burning and rare and endangered plant regeneration fires, as defined in WAC 173-425-030, may be exempt from Section 6.01.D.1-3, 6 and 11-12.

l. Fires set for improving and maintaining fire dependent ecosystems, as provided in RCW 70.94.660 may be exempt from Section 6.01.D.1-3, 6 and 12.

2. Exceptions that do not Require an Outdoor Burning Permit. ((The prohibitions in Subsections 1 through 6 of Section 6.01.D shall not apply to the following types of fires if authorized by the Authority:))

a. Indian ((C)) ceremonial fires are exempt from Section 6.01.D.1-3.

b. Recreational fires are exempt from Section 6.01.D.1-3, provided the fire is not started an unreasonable length of time before, nor continues an unreasonable length of time beyond, its recreational purpose.

((e. Fires set for a social event, provided the fire is not started an unreasonable length of time before nor continues an unreasonable length of time beyond the event.))

c((d)). Fires set for improving and maintaining fire dependent ecosystems, as provided in ((Chapter)) RCW 70.94.660 ((RCW)) are exempt from Section 6.01.D.2, 6 and 12.

d((e)). Fires fueled exclusively by flares or torches are exempt from Section 6.01.D.1-4 and 12 provided the flares or torches are not started an unreasonable length of time before nor continue an unreasonable length of time beyond the event for which they are being used.

e. Aircraft crash rescue training fires authorized by a fire protection agency do not require a permit if performed in accordance with RCW 70.94.650(5) and are exempt from Section 6.01.D.1-4, 6-8 and 11-12.

f. Forest fire instruction fires authorized by a fire protection agency are exempt from Section 6.01.D.1-4, 6-8 and 12.

g. Structural fire training fires authorized by a fire protection agency that are located within unincorporated areas and outside urban growth areas do not require a permit if performed in accordance with RCW 52.12.150 and are exempt from Section 6.01.D.1-2, 4, 6-8 and 12.

~~((3. Nothing in Section 6.01, except for Subsection 8 of Section 6.01.D., shall apply to the following types of fires:~~

~~a. Silvicultural burning.~~

~~b. Agricultural burning pursuant to Section 6.11.~~

~~c. Grass field burning pursuant to Section 6.10.~~

~~4. Subsection 6 of Section 6.01.D. shall not apply to fires for which a valid written permit has been issued by a permitting authority.))~~

3((5)). Nothing in Section 6.01 shall apply to burning of combustible material in a multiple-chambered unit, such as in a multiple-chambered incinerator, as long as the unit is registered with the Authority pursuant to Article IV or the operator possesses a valid ((Approval)) Notice of Construction approval issued pursuant to Article V, the operator has been trained in the operation of the unit(s), and the unit complies with all applicable regulations.

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the Spokane County Air Pollution Control Authority and appear in the Register pursuant to the requirements of RCW 34.08.040.

## REPEALER

~~((F. General Conditions. Considering population density and local conditions affecting air quality, the permitting authority shall establish conditions for all permits to minimize air pollution as much as practical. Conditions may include but are not limited to restricting the permissible hours of burning, restricting burning to a defined season, restricting the size of fires, imposing requirements for good combustion practice, and restricting burning to specified weather conditions. Any person who practices or permits the practice of open burning shall, in addition to any specific permit conditions imposed, comply with all of the following conditions:~~

~~1. Whenever an episode or impaired air quality is declared, all small fires shall be immediately extinguished by smothering the fire with water or soil. All other fires shall be extinguished by withholding new fuel and allowing the fire to burn down.~~

~~2. The fire shall be attended by a person who is responsible for and capable of extinguishing the fire. The fire must be extinguished before leaving it.~~

~~3. Burning shall occur during daylight hours only, or a more restrictive period as determined by the permitting authority.~~

~~4. All fires shall be on non-combustible surfaces at an adequate distance but no less than 50 feet from buildings, fences, other combustible materials, and other fires.~~

~~5. If requested by the permitting authority, the responsible person shall provide adequate justification that burning, as requested, is reasonably necessary to successfully carry out the enterprise in which the person is engaged.~~

~~6. Permission from a landowner, or owner's designated representative, must be obtained prior to igniting an open fire.~~

~~7. If it becomes apparent at any time to the Authority or permitting authority that limitations need to be imposed to reduce smoke and prevent air pollution and/or protect property and the health, safety and comfort of persons from the effects of burning, the Authority or permitting authority shall notify the permittee or responsible person and any limitation so imposed shall become a condition under which the permit is issued.~~

~~8. The Authority or permitting authority shall be contacted to confirm burning conditions for each day, prior to igniting an open fire.~~

**Reviser's note:** The typographical error in the above material occurred in the copy filed by the Spokane County Air Pollution Control Authority and appears in the Register pursuant to the requirements of RCW 34.08.040.

## NEW SECTION

F. General Conditions. Considering population density and local conditions affecting air quality, the Authority or permitting authority shall establish conditions for all permits to minimize air pollution as much as practical. Such conditions may be general (applying to all permits) or specific (applying to individual permits). Conditions may address permissible hours of burning, maximum size or volume of material to be burned, requirements for good combustion practice, burning under specified weather conditions, pre-burn and post-burn reporting, and other criteria, determined by the permitting authority, as necessary to minimize air pollution. Unless exempt per Section 6.01.E, any person who practices or permits the practice of outdoor burning shall, in addition to any specific permit conditions imposed, comply with any prohibitions, requirements, and general conditions in Section 6.01.D, WAC 173-425-040, WAC 173-425-050, and all of the following conditions:

1. Curtailments.

a. No outdoor fire may be ignited in a geographical area where:

(i) Department of Ecology has declared an episode;

(ii) Authority has declared impaired air quality; or

(iii) The appropriate fire protection authority has declared a fire danger burn ban, unless that authority grants an exception.

b. The responsible person shall contact the Authority or permitting authority each day, prior to igniting an outdoor fire, to determine outdoor burning conditions.

c. The responsible person for an outdoor fire must extinguish the fire when an episode, impaired air quality, or fire danger burn ban that applies to the burning is declared. All small fires shall be immediately extinguished by smothering the fire with water or soil. All other fires shall be extinguished by methods including, but not limited to, withhold-

ing new fuel and allowing the fire to burn down. In this regard:

(i) Smoke visible from all types of outdoor burning, except land clearing burning, after a time period of three hours has elapsed from the time an air pollution episode, impaired air quality condition, or fire danger burn is declared, will constitute prima facie evidence of unlawful outdoor burning.

(ii) Smoke visible from land clearing burning after a time period of eight hours has elapsed from the time an air pollution episode, impaired air quality condition, or fire danger burn is declared, will constitute prima facie evidence of unlawful outdoor burning.

2. Any person responsible for unlawful outdoor burning must immediately extinguish the fire, except as provided for in Section 6.01.F.1.c.

3. Outdoor containers used for outdoor burning, other than those used for recreational fires, Indian ceremonial fires, fire extinguisher training and social events, must be constructed of concrete or masonry with a completely enclosed combustion chamber and equipped with a permanently attached spark arrester constructed of iron, heavy wire mesh, or other noncombustible material with openings not larger than one-half inch.

4. Until extinguished, the fire shall be attended by a person who is responsible and capable of extinguishing the fire.

5. All fires must be on non-combustible surfaces, at an adequate distance, but no less than 50 feet from buildings, fences, other combustible materials, and other fires.

6. Permission from the landowner, or the landowner's designated representative, must be obtained before starting the fire.

7. Except for recreational fires, Indian ceremonial fires, and social event fires, burning shall occur only during daylight hours, or a more restrictive period as determined by the Authority or the permitting authority.

8. For outdoor burning that requires a permit, a responsible person attending the fire in accordance with Section 6.01.F.4 shall maintain the permit or a copy of the permit in his or her immediate possession, and make the permit available for review upon request of the Authority or permitting authority.

9. Structural fire training, provided for in Sections 6.01.E.1.e and 6.01.E.2.g, may be performed by a fire protection agency provided the following requirements are also met:

(i) The owner and fire protection agency must have met the requirements in SCAPCA Regulation I, Article IX and Section 10.09 prior to training;

(ii) The fire protection agency conducting the fire training must have a fire-training plan, which will be made available to the Authority upon request, and the purpose of the structural fire must be to train fire fighters; and

(iii) Composition roofing, asphalt roofing shingles, asphalt siding materials, miscellaneous debris from inside the structure, carpet, linoleum, and floor tile, must not be burned. These materials must be lawfully removed from the structure and disposed of in a lawful manner prior to the training exercise.

## REPEALER

~~G. Open Burning of Yard and Garden Debris. All of the following shall apply:~~

~~1. Single small fires for the disposal of yard and garden debris generated on the premises of a residence, consisting of four dwelling units or less, may be allowed under a permit program administered by a permitting authority, without a written permit.~~

~~2. Single small fires for the disposal of yard and garden debris generated on the premises of residential property consisting of more than four dwelling units may be allowed under a written permit issued to a responsible person by a permitting authority.~~

~~3. Burning shall be done only during periods specified by the Board of Directors or Control Officer of the Authority. These periods shall not exceed the following limitations:~~

~~a. Burning shall be done between the hours of 9 a.m. and 5 p.m. or a more restrictive period as determined by the permitting authority.~~

~~b. Until December 31, 1995, the number of specified burn days shall not exceed 21 days per year.~~

~~c. After December 31, 1995, the number of specified burn days shall not exceed 14 days per year.~~

~~d. After December 31, 1998, the number of specified burn days shall not exceed 7 days per year.))~~

~~H. Field response.~~

~~1. By November 1, 1994, Spokane County shall identify a fire marshal or other appropriate county official for field response and to document open burning complaints and violations in the unincorporated portions of the following geographical areas, using appropriate field notices:~~

~~a. The Spokane Carbon Monoxide Nonattainment Area~~

~~b. The Spokane PM10 Nonattainment Area~~

~~c. The No Burn Area, as defined by resolution of the Board of Directors of the Authority.~~

~~d. Any additional No Burn Area subsequently created by the absence of agreement on a permit program pursuant to Chapter 173-425-070 WAC.~~

~~2. By November 1, 1994, all agencies which have agreed to become permitting authorities shall commence field response programs to document open burning complaints and violations within their respective areas of jurisdiction, using appropriate field notices.))~~

~~Reviser's note: The typographical error in the above material occurred in the copy filed by the Spokane County Air Pollution Control Authority and appears in the Register pursuant to the requirements of RCW 34.08.040.~~

## NEW SECTION

G. Permit Requirements. Written permits, as required in Section 6.01.E.1, are subject to the following requirements:

1. All applicants for outdoor burning permits must submit their requests to burn, on forms or in a format provided by the permitting authority.

2. The permitting authority may require additional information from the applicant, as necessary to determine if outdoor burning is reasonably necessary, to determine how best to minimize air pollution, and to determine if any special conditions are applicable.



3. The permitting authority shall not issue a permit if it determines that the proposed burning will cause or is likely to cause a nuisance.

4. The permitting authority may deny an application or revoke a previously issued permit if it is determined by the permitting authority that the application contained inaccurate information, or failed to contain pertinent information, which information is deemed by the permitting authority to be significant enough to have a bearing on the permitting authority's decision to grant a permit.

5. All applicants for outdoor burning permits shall pay a fee at the time of application, according to a schedule of fees, established by resolution of the permitting authority. When the permitting authority is the Spokane County Air Pollution Control Authority, the fee shall be according to the schedule in Regulation I, Article X, Section 10.13.

6. No permit for outdoor burning shall be granted on the basis of a previous permit history.

7. Permit timelines. For fires in Section 6.01.E.1.a, b and f-l, all applicants shall file an application in accordance with Section 6.01.G.7.a. For fires in Section 6.01.E.1.c-e, all applicants shall file an application in accordance with Section 6.01.G.7.a and/or b.

a. 30-day permit.

(i) Unless otherwise approved by the Authority, all applicants shall submit a completed permit application no less than 10 days prior to the first proposed burn date.

(ii) One application is required for each type of outdoor burning provided for in Section 6.01.E.1 when the request is for burning at one real property, within a specified 30-day period.

b. Annual permit.

(i) Unless otherwise approved by the Authority, all applicants shall submit a completed permit application no less than 30 days prior to the first proposed burn date.

(ii) One application is required for outdoor burning provided for in Section 6.01.E.1.c-e when the request is for burning at one or more real properties during a 12-month period.

(iii) A responsible person must notify the Authority prior to each burn on a completed Authority-approved form.

(iv) For fires in Section 6.01.E.1.c-d, notification must be provided at least 1 working day prior to the fire training exercise. For fires in Section 6.01.E.1.e, notification must be submitted with the Notice of Intent required in Article IX and Section 10.09.

## AMENDATORY SECTION

### ~~H~~(F). Violations.

1. The Authority may issue a Notice of Violation to a responsible person when:

a. Any specific prohibition, requirement, permit condition, or any general ~~(permit)~~ condition specified in Section 6.01~~(F)~~ is violated~~(or)~~.

~~(b. Any prohibition in Section 6.01.D. is violated; or~~

~~e. An open fire is ignited where a permit is required and no such permit has been obtained.)~~

2. A fire protection agency called to respond to, control, or extinguish an illegal or out-of-control fire may charge and

recover from the responsible person(s), the costs of its response and control action.

3. Spokane County and all permitting authorities may refer field notices and other documentation to the Authority for appropriate enforcement action. The Authority shall remit one-half of any civil penalty collected, to the referring agency, if the referring agency makes such a request in writing at the time of referral.

~~((4. Smoke visible from open burning after a time period of three hours has elapsed from the time of declaration of an episode or impaired air quality shall constitute prima facie evidence of unlawful open burning.))~~

I~~(J)~~. The provisions of this Section are severable. If any phrase, sentence, paragraph, or provision is held invalid, the application of such phrase, sentence, paragraph, or provision to other circumstances and the remainder of this Section shall not be affected.

J~~(K)~~. Compliance ~~((with other laws and regulations))~~. The responsible person is expected to comply with all applicable laws and regulations. Compliance with Section 6.01 or qualifying for an exception in Section 6.01.E. does not ~~((necessarily mean))~~ insure that ~~((open))~~ outdoor burning complies with other applicable laws and regulations implemented by any other ((authorities)) authority or entity.

## ARTICLE X

### FEES AND CHARGES

#### NEW SECTION

#### SECTION 10.13 OUTDOOR BURNING PERMIT FEES

A. For outdoor burning permit applications, submitted to the Authority pursuant to Section 6.01 of this regulation, a nonrefundable fee shall accompany the application. The fee is as follows:

1. A \$10 fee shall be submitted with each 30-day permit application.

2. A \$25 fee shall be submitted with each annual permit application.

WSR 01-03-038

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

(Division of Assistance Programs)

[Filed January 9, 2001, 4:42 p.m.]

Original Notice.

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

Title of Rule: WAC 388-450-0190 Shelter cost income deductions for food assistance.

Purpose: Changes the excess shelter deduction from \$300 to \$340 effective March 1, 2001, for new applications

and recertifications for food assistance that occur on or after March 1, 2001.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.510.

Statute Being Implemented: RCW 74.08.090, 74.04.510.

Summary: The USDA Food and Nutrition Service mandates this changes in the excess shelter cost deduction for new applications and recertifications that occur on or after March 1, 2001. It can not be applied to households with certification periods prior to March 1, 2001.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Vicky T. Robinson, Division of Assistance Programs, (360) 413-3031.

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

Rule is necessary because of federal law, Amendments to 7 U.S.C. 2014 (e)(7)(B).

Explanation of Rule, its Purpose, and Anticipated Effects: Amending WAC 388-450-0190 to update the excess shelter cost deduction from \$300 to \$340 effective March 1, 2001. This change will be applied only to new applications and recertifications that occur on or after March 1, 2001. It can not be applied to households with certification periods prior to that date.

Proposal Changes the Following Existing Rules: Updates WAC 388-450-0190 by changing the excess shelter cost deduction amount for households certified either on or after March 1, 2001.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not impact small businesses.

RCW 34.05.328 does not apply to this rule adoption. This rule change 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-B, Lacey, WA 98503, on February 27, 2001, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Kelly Cooper, DSHS, Rules Coordinator, phone (360) 664-6094, TTY (360) 664-6178, e-mail coopekd@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Kelly Cooper, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by February 27, 2001.

Date of Intended Adoption: No earlier than February 28, 2001.

January 8, 2001

Charles Hunter, Director  
Administrative Services Division

**AMENDATORY SECTION** (Amending WSR 99-16-024, filed 7/26/99, effective 9/1/99)

**WAC 388-450-0190 How does the department figure my shelter cost income deduction((s)) for food assistance((s))?** (1) ((Shelter costs include:

(a) Rent, lease payments and mortgage payments; and

(b) Utility costs;

(2) Shelter costs are deducted from gross income if the costs are in excess of fifty percent of the assistance unit's income after deducting the standard, earned income, medical, child support, and dependent care deductions:

(a) For an assistance unit containing an elderly or disabled member the entire amount of excess shelter costs is deducted;

(b) For all other assistance units the excess shelter cost deduction cannot exceed two hundred seventy-five dollars.

(3) Shelter costs may include:

(a) Costs for a home not occupied because of employment, training away from the home, illness, or abandonment caused by casualty loss or natural disaster if the:

(i) Assistance unit intends to return to the home;

(ii) Current occupants, if any, are not claiming shelter costs for food assistance purposes; and

(iii) The home is not being leased or rented during the assistance unit's absence.

(b) Charges for the repair of the home which was substantially damaged or destroyed due to a natural disaster.

(c) The standard utility allowance as provided in WAC 388-450-0195)) To figure your shelter cost deduction for food assistance, the department first adds up what your assistance unit (AU) is responsible to pay each month for shelter. We do not count any overdue amounts, late fees, penalties, or any amounts you pay ahead of time as an allowable cost. Your allowable shelter costs include your:

(a) Ongoing rent, lease, and mortgage payments;

(b) Property taxes;

(c) Homeowner's insurance for the building only;

(d) Utility allowance your AU is eligible for under WAC 388-450-0195;

(e) Out-of-pocket repairs for the home if it was substantially damaged or destroyed due to a natural disaster such as a fire or flood;

(f) Expense of a temporarily unoccupied home because of employment, training away from the home, illness, or abandonment caused by a natural disaster or casualty loss if your:

(i) AU intends to return to the home;

(ii) AU has current occupants who are not claiming the shelter costs for food assistance purposes; and

(iii) AU's home is not being leased or rented during your AU's absence.

(2) Second, we subtract from your AU's gross income all deductions your AU is eligible for under WAC 388-450-0185. The result is your AU's net income.

(3) Finally, we subtract from your AU's total shelter costs one-half of your net income. The result is your excess shelter cost income deduction. The deduction your AU will get is:

(a) Up to a maximum of three hundred dollars if no one in your AU is elderly or disabled and you were found eligible for benefits prior to March 1, 2001; or

(b) Up to a maximum of three hundred forty dollars if no one in your AU is elderly or disabled and you were found eligible for benefits or were recertified for benefits either on or after March 1, 2001; or

(c) The entire amount if someone in your AU is elderly or disabled, even if the amount exceeds three hundred forty dollars.

**WSR 01-03-040**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed January 9, 2001, 4:47 p.m.]

Original Notice.

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

Title of Rule: WAC 388-400-0030 Refugee cash assistance.

Purpose: Changes the date asylees become eligible for refugee cash assistance (RCA) from the month they enter the United States to the date they are granted asylum. Prior to this change asylees were not eligible for RCA until asylum had been granted. This was usually after the eight-month time limit expired. This change reflects reversal of policy by the United State Immigration and Naturalization Service (INS).

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090.

Summary: Changes the date asylees are eligible for RCA from the month of entry to the date they are granted asylum.

Reasons Supporting Proposal: Prior to this change asylees could not timely access RCA as by the time asylum had been granted the eight-month time limit (from the month of entry) had expired. This change will insure that asylees will be able to get needed benefits under the RCA program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Vicky Robinson, Division of Assistance Programs, (360) 413-3031.

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: Changes the date asylees are eligible for RCA from the month of entry to the date they are granted asylum. This change reflects a reversal in policy from the INS and was done so that asylees would be able to access RCA benefits in a timely manner.

Proposal Changes the Following Existing Rules: Changes the date asylees are eligible for RCA from the month of entry to the date they are granted asylum.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Small businesses are not impacted by this change.

RCW 34.05.328 does not apply to this rule adoption. This change in rule does not meet the definition or a signifi-

cant legislative rule because RCW 34.05.328 (5)(b)(vii) exempts rules relating to client financial eligibility.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on February 27, 2001, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Kelly Cooper, DSHS Rules Coordinator, by February 21, 2001, phone (360) 664-6094, TTY (360) 664-6178, e-mail coo-pekD@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by February 27, 2001.

Date of Intended Adoption: No sooner than February 28, 2001.

January 8, 2001

Charles Hunter, Director  
 Administrative Services Division

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-400-0030 How do I qualify for refugee cash assistance**~~((Summary of eligibility requirements))~~? (1) To be eligible for refugee cash assistance (RCA), ~~((persons))~~ you must:

(a) Provide the name of the voluntary agency (VOLAG) which resettled ~~((them))~~ you; and

(b) Meet the:

(i) Immigration status requirements of WAC 388-466-0005;

(ii) Work and training requirements of WAC 388-466-0015;

(iii) Income and resource requirements under chapters 388-450 and 388-470 WAC with exceptions as provided under WAC 388-466-0010(~~and~~

~~((iv) Monthly reporting requirements of chapter 388-456 WAC)).~~

(2) ~~((Persons))~~ You are not eligible to receive RCA if ~~((they))~~ you:

(a) Are eligible for temporary assistance for needy families (TANF) or Supplemental Security Income;

(b) Have been denied TANF or have been terminated from TANF due to intentional noncompliance with TANF eligibility requirements; or

(c) Are a full-time ~~((students in institutions of higher education unless the educational activity is part of a department approved employability plan.~~

~~((3) Refugee families, including families with children who are United States citizens, will be treated as single assistance units according to chapter 388-408 WAC.~~

~~((4) Eligibility and benefit levels for RCA assistance units are determined using the TANF payment standards in WAC 388-478-0020.~~

~~((5) Persons eligible for RCA are eligible for additional requirements for emergent situations as provided in chapter 388-436 WAC.~~

~~(6) A person meeting the requirements of this section is eligible for refugee cash assistance only during the eight-month period beginning in the first month the person entered the United States)) student in an institution of higher education.~~

(3) If you are a refugee family and have children who are United States citizens, we treat you as a single assistance unit under chapter 388-408 WAC.

(4) We determine your eligibility and benefit level for RCA using the TANF payment standards under WAC 388-478-0020.

(5) If you are eligible for RCA and are pregnant or have a dependent child you may also be eligible for additional requirements for emergent needs under WAC 388-436-0002.

(6) If you meet the requirements of this section you are eligible for refugee cash assistance only during the eight-month period beginning:

(a) The date asylum is granted if you are an asylee; or

(b) The first month you entered the United States if you are not an asylee.

**WSR 01-03-060**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)

[Filed January 11, 2001, 4:15 p.m.]

Original Notice.

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

Title of Rule: WAC 388-310-0900 WorkFirst basic education, 388-310-1000 WorkFirst vocational education, and 388-310-1050 WorkFirst job skills training.

Purpose: To comply with recent changes to RCW 74.08A.250 to provide new eligibility rules for internships and practicums programs. To add new eligibility rules for seasonal employment to existing WorkFirst programs.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050.

Statute Being Implemented: RCW 74.08.090, 74.04.050.

Summary: Will allow WorkFirst clients in approved internships or practicums to meet program participation requirements without working twenty or more hours per week (limited to a twelve month program). New seasonal employment program will allow workers who have been approved as seasonal by Employment Security to meet their work requirements during the peak season and pursue training in the off season.

Reasons Supporting Proposal: To implement new rules and policies supporting self-sufficiency for WorkFirst clients.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jeff Willis, WorkFirst Division, P.O. Box 45480, Olympia, WA 98504-5480, (360) 413-3257, fax 413-3482.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: The internship and practicum program will allow clients to participate in a training or educational program for up to twelve months. This program will meet the work requirement for participating in the WorkFirst program, clients will not be required to work twenty hours or more per week.

Long work hours during the peak season, coupled with unemployment during the off-season, make it extremely difficult for many seasonal workers to participate in training. This program will offer seasonally employed workers the opportunity to meet their work requirements during the peak season and pursue training in the off season.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not affect small business.

RCW 34.05.328 applies to this rule adoption. This is a significant legislative rule. However, RCW 34.05.328 (5)(b)(vii) exempts DSHS rules that only apply to client medical or financial eligibility.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on February 27, 2001, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Kelly Cooper by February 20, 2001, phone (360) 664-6094, TTY (360) 902-8324, e-mail coopeKD@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Kelly Cooper, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 902-8292, by February 27, 2001.

Date of Intended Adoption: No sooner than February 28, 2001.

January 8, 2001

Charles Hunter

for Bonita H. Jacques, Chief  
Office of Legal Affairs

AMENDATORY SECTION (Amending WSR 99-10-027, filed 4/28/99, effective 5/29/99)

**WAC 388-310-0900 WorkFirst—Basic education. (1) What is basic education?**

Basic education is high school completion, classes to prepare for GED and testing to acquire GED certification. It may include families that work, workplace basics, adult basic education (ABE) or English as a second language (ESL) training if:

(a) It is determined you need this education to become employed or get a better job; and

(b) This activity is combined with paid or unpaid employment or job search.

**(2) When do I participate in basic education as part of WorkFirst?**

PROPOSED

You may participate in basic education as part of WorkFirst under any of the following circumstances:

(a) You may choose to participate, if you are twenty years of age or older and are working in paid or unpaid employment or in job search for a minimum of twenty hours a week (in addition to the basic education).

(b) You may be required to participate if you are a mandatory participant, a parent eighteen or nineteen years of age, you do not have a high school diploma or GED certificate and you need this education in order to find employment.

(c) You will be required to be in high school or a GED certification program if you are a mandatory participant, sixteen or seventeen years old and you do not have a high school diploma or GED certificate.

(d) Employment security department (ESD) has determined that you are a seasonal worker (that is, your normal way of life is based on recurring cycle of seasonal employment). Under WorkFirst, seasonal workers qualify for full-time education and training during the off season.

**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 WSR 99-10-027, filed 4/28/99, effective 5/29/99)

**WAC 388-310-1000 WorkFirst—Vocational education. (1) What is vocational education?**

Vocational education is training that leads to a degree or certificate in a specific occupation and is offered by an accredited:

- (a) Public and private technical college or school;
- (b) Community college; or
- (c) Tribal college.

**(2) When can vocational education be included in my individual responsibility plan?**

We may add vocational education to your individual responsibility plan if:

- (a) You are working twenty or more hours a week; or
- (b) ~~((You lack job skills that are in demand for entry level jobs in your area; and~~

~~(e) The vocational education program is the only way that you can acquire the job skills you need to qualify for entry level jobs in your area (because there is no available work experience, pre-employment training or on-the-job training that can teach you these skills)))~~ Employment security department (ESD) has determined that you are a seasonal worker (that is, your normal way of life is based on a recurring cycle of seasonal employment). Under WorkFirst, seasonal workers qualify for full-time education and training during the off season; or

(c) You are in an internship or practicum for up to twelve months that is paid or unpaid and required to complete a course of vocational training or to obtain a license or certificate in a high demand field, as determined by the employment security department; or

(d) You lack job skills that are in demand for entry level jobs in your area; and the vocational education program is the only way that you can acquire the job skills you need to qualify for entry level jobs in your area (because there is no avail-

able work experience, pre-employment training or on-the-job training that can teach you these skills).

**(3) Can I get help with paying the costs of vocational education?**

WorkFirst will pay for the costs of your vocational education, such as tuition or books, if vocational education is in your individual responsibility plan and there is no other way to pay them. You can also get help with paying your child care costs through the working connections child care program. (See chapter 388-290 WAC for the working connections child care program rules.)

**AMENDATORY SECTION** (Amending WSR 99-10-027, filed 4/28/99, effective 5/29/99)

**WAC 388-310-1050 WorkFirst—Job skills training.**

**(1) What is job skills training?**

Job skills training is training in specific skills directly related to employment, but not tied to a specific occupation. Job skills training programs differ in how long the course lasts, what skills are taught and who provides the training. The training may be offered by:

- (a) Community based organizations;
- (b) Businesses;
- (c) Tribal governments; or
- (d) Public and private community and technical colleges.

**(2) When can job skills training be included in my individual responsibility plan?**

We may add job skills training in your individual responsibility plan for the same reasons we would add vocational education. That is if:

- (a) You are working twenty or more hours a week; or
- (b) Employment security department (ESD) has determined that you are a seasonal worker (that is, your normal way of life is based on a recurring cycle of seasonal employment). Under WorkFirst, seasonal workers qualify for full-time education and training during the off season; or

(c) You are in an internship or practicum for up to twelve months that is paid or unpaid and required to complete a course of vocational training or to obtain a license or certificate in a high demand field, as determined by the employment security department; or

(d) You lack job skills that are in demand for entry level jobs in your area; and

~~((e)))~~ (e) The job skills training program is the only way you can acquire the job skills you need to qualify for entry level jobs in your area (because there is no available work experience, pre-employment training, or on-the-job training that can teach you these skills).

**(3) Can I get help with paying the costs of job skills training?**

WorkFirst will pay your costs, such as tuition or books, if job skills training is in your individual responsibility plan and there is no other way to pay them. You can also get help with paying your child care costs through the working connections child care program. (See chapter 388-290 WAC for the working connections child care program rules.)

## WSR 01-03-072

## PROPOSED RULES

## DEPARTMENT OF LICENSING

[Filed January 16, 2001, 9:23 a.m.]

## Original Notice.

Preproposal statement of inquiry was filed as WSR 00-23-001.

Title of Rule: Chapter 308-56A WAC, Certificate of title—Motor vehicles and chapter 308-93 WAC, Vessel forms of ownership.

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, 88.02.070, and 88.02.100.

Summary: Amending WAC 308-93-390 Vessels held in trust, 308-56A-021 Assessment criteria for penalty fee, 308-56A-065 Vehicles held in trust, and 308-56A-310 Personal property lien-chattel, landlord.

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

Name of Agency Personnel Responsible for Drafting: Katherine Iyall Vasquez, 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 5, 2001, at 10:30 a.m.

Assistance for Persons with Disabilities: Contact Katherine Iyall Vasquez by March 2, 2001, TTY (360) 664-8885, or (360) 902-3718.

Submit Written Comments to: Katherine Iyall Vasquez, Rules Manager, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, fax (360) 664-0831, by March 2, 2001.

Date of Intended Adoption: March 23, 2001.

January 12, 2001

Deborah McCurley, Administrator  
Title and Registration Services

AMENDATORY SECTION (Amending WSR 99-22-059, filed 11/1/99, effective 12/2/99)

**WAC 308-93-390 Vessels held in trust.** (1) **How is a trust (~~established under chapter 11.98 RCW~~) shown on a certificate of ownership?** Owners who choose to designate the trust on a certificate of ownership may:

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

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

(c) The name of the trust only.

(2) **What trust documents do I need to present to apply for a certificate of ownership in the name of the trust?** (~~In addition to documents required by chapters 88.02 RCW and 308-93 WAC~~) You will need to provide a copy of the signed trust documents, showing the name of the trust, trustee(s) and successor trustees. However, trusts established under chapter 23.90 RCW must provide notarized/certified documentation from the secretary of state showing the trust is registered with the state of Washington.

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

(4) **What is required when the succession of trustees changes?** (~~When there is a change in the succession of trustees, the successor trustee shall do one of the following:~~) If the name of the trustee as shown on the certificate of ownership changes, the successor trustee must apply for a new certificate of ownership and provide documentation appointing them as trustee.

(a) If the certificate of ownership shows the registered owner name with the designation **trustee** or the registered owner name with the designation **trustee** followed by the name of the trust as one owner, the new trustee must apply for a new certificate of ownership and provide documentation appointing the new or successor trustee.

(b) If the certificate of ownership is in the name of the trust only, the department does not require a new application for certificate of ownership provided the current trust documents indicate the new succession of trustees.

(5) **What is required when a trust is terminated?** (~~The beneficiary~~) If the termination of the trust results in a change of ownership for the vehicle, the new owner must apply for a new certificate of ownership under chapter (~~88.02~~) 46.12 RCW.

AMENDATORY SECTION (Amending WSR 00-20-065, filed 10/3/00, effective 11/3/00)

**WAC 308-56A-021 Assessment criteria for penalty fee.** (1) **What is the penalty fee?** When a used vehicle with

a Washington certificate of ownership is sold, the purchaser has fifteen days to transfer the vehicle ownership into their name. If they wait until the 16th day or later from the date of sale, a penalty fee may be assessed as described in RCW 46.16.101(6).

**(2) Are there exceptions to a penalty fee being assessed ~~((for late application))~~ when applying for certificate of ownership ~~((beginning))~~ on the 16th day from the date of sale or later as described in RCW 46.12.101(6)?** Yes, if:

(a) The vehicle was ~~((received by))~~ delivered to the purchaser after the date of sale indicated on the supporting documents;

(b) There are conflicting dates on supporting documents;

(c) There is no date on the certificate of ownership or other supporting documents;

(d) The date on the certificate of ownership has been altered;

(e) The purchaser is incarcerated or sequestered by a judiciary system;

(f) The purchaser files a seller's report of sale thinking they have filed an application to transfer certificate of ownership;

(g) ~~((A))~~ The purchaser ~~((fails to transfer ownership prior to selling the vehicle and the applicant))~~ of a vehicle sells it before transferring ownership into their name and the new purchaser can prove they ~~((have))~~ purchased the vehicle within fifteen days of making application; or

(h) The director determines other reasons are valid.

Note: Subsection (2)(a) through ~~((h))~~ (g) of this section require ~~((the applicant to sign))~~ an affidavit attesting to the actual date of delivery and reason for exception to the penalty.

~~((2))~~ **(3) When are penalty fees for late application for certificate of ownership not assessed?** Penalty fees are not assessed for late application for certificate of ownership under the following conditions:

(a) The vehicle is not motorized;

(b) The vehicle is sold by a Washington dealer (dealer report of sale box on the application is completed);

(c) A Washington record cannot be found;

(d) Department of licensing records indicate the vehicle has been destroyed;

(e) The vehicle is being titled as home made or assembled for the first time;

(f) The vehicle is acquired as a result of:

(i) Inheritance or community property;

(ii) Divorce settlement;

(iii) Other legal action affecting ownership of the vehicle;

(iv) Lease buyout;

(g) The vehicle is a snowmobile; or

(h) The director determines other reasons are valid.

**AMENDATORY SECTION** (Amending WSR 99-08-064, filed 4/5/99, effective 5/6/99)

**WAC 308-56A-065 Vehicles held in trust.** (1) **How is a trust** ~~((established under chapter 11.98 RCW))~~ shown

**on a certificate of ownership?** Owners who choose to designate the trust on a certificate of ownership may:

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

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

(c) The name of the trust only.

**(2) What trust documents do I need to present to apply for a certificate of ownership in the name of the trust?** You will need to provide a copy of the signed trust documents, showing the name of the trust, trustee(s) and successor trustees. However, trusts established under chapter 23.90 RCW must provide notarized/certified documentation from the secretary of state showing the trust is registered with the state of Washington.

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

**(4) What is required when a successor trustee is appointed?** If the name of the trustee as shown on the certificate of ownership changes, the successor trustee must apply for a new certificate of ownership and provide documentation appointing them as trustee.

**(5) What is required when a trust is terminated?** ~~((The beneficiary))~~ If the termination of the trust results in a change of ownership for the vehicle, the new owner must apply for a new certificate of ownership under chapter 46.12 RCW.

**AMENDATORY SECTION** (Amending WSR 99-13-150, filed 6/21/99, effective 7/22/99)

**WAC 308-56A-310 Personal property lien—Chattel, landlord.** (1) **What is a chattel lien?** For the purposes of this section a "chattel lien" means: A lien obtained by any person, firm or company for services or materials for a vehicle at the owner's request, in the event of nonpayment by the owner. A person or firm that provides services or material for a vehicle at the owner's request may obtain a lien on such vehicle. In the event of nonpayment the lien may be foreclosed as provided by law.

**(2) What documents does the department require to issue a certificate of ownership for a vehicle which has been processed through the chattel lien procedure?** The department requires, in addition to other documents required by chapters 46.01 and 46.12 RCW:

(a) A copy of a court order. The court order must state specifically that the lien shall be removed ~~((or~~

~~((b)))~~. If the court order does not indicate removal of the security interest, the new owner may:

(i) Negotiate with a secured party to obtain either a release of interest or a new security agreement; or

(ii) Petition the original court that issued the order, or higher court, to have the matter of the secured interest resolved; or

~~((e))~~ (b) An affidavit of sale chattel/landlord lien form provided or approved by the department.

~~((f))~~ (If there is a lienholder, we require a release of interest from the lienholder. If no release of interest is obtained the lien will be shown on the new certificate of ownership.

~~((2))~~ (3) When does the department require a court order to issue a certificate of ownership as a result of a chattel lien? A court order is required when:

(a) The vehicle is no longer in the possession of the person/business who is claiming the chattel/landlord lien; or

(b) Someone other than the owner requested the services.

~~((3))~~ (4) What is a landlord lien? For the purposes of vehicle licensing and titling, a landlord lien is an encumbrance on a vehicle as security for the payment of moneys owing for rent.

(5) What documents does the department require to issue a certificate of ownership for a vehicle, which has been processed through the landlord lien procedure? The department requires, in addition to other documents required by chapters 46.01 and 46.12 RCW:

(a) A copy of a court order; or

(b) An affidavit of sale chattel/landlord lien form provided or approved by the department.

~~((4))~~ (6) When does the department require a court order to issue a certificate of ownership as a result of a landlord lien? A court order is required when:

(a) The vehicle is no longer in the possession of the person/business who is claiming the landlord lien; or

(b) There is more than one lien claimed against the vehicle.

#### WSR 01-03-077

#### WITHDRAWAL OF PROPOSED RULES

#### DEPARTMENT OF FISH AND WILDLIFE

(By the Code Reviser's Office)

[Filed January 16, 2001, 10:23 a.m.]

WAC 232-28-274, proposed by the Department of Fish and Wildlife in WSR 00-14-080 appearing in issue 00-14 of the State Register, which was distributed on July 19, 2000, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

#### WSR 01-03-083 PROPOSED RULES DEPARTMENT OF LICENSING

[Filed January 16, 2001, 1:12 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-17-122.

Title of Rule: Chapter 308-78 WAC, Aircraft fuel tax.

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 82.42.100.

Summary: Amending WAC 308-78-010 Definitions, 308-78-020 Bond requirements and collection, 308-78-030 Required reports, 308-78-040 Tax exempt sales by licensed distributors, 308-78-045 Tax exempt use and circumstances, 308-78-070 Records, 308-78-080 Refunds and 308-78-090 Mitigation of penalties and/or interest; new sections WAC 308-78-035 Minimum tax payment/refund, 308-78-046 Tax exempt losses and 308-78-075 Invoices issued by licensees; and repealing WAC 308-78-060 Tax exempt losses.

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

Name of Agency Personnel Responsible for Drafting: Art Farley, 2424 Bristol Court S.W., Olympia, 664-1820; Implementation and Enforcement: Jeff Beach, 2424 Bristol Court S.W., Olympia, 664-1844.

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 current aircraft fuel tax rules and a new format to enhance readability and understanding.

Proposal Changes the Following Existing Rules: Rules were clarified, changed to question and answer format and consolidated for ease in understanding and centralization of subject matter.

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: 2424 Bristol Court S.W., 3rd Floor Conference Room, Olympia, WA 98507, on February 27, 2001, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Art Farley by February 1, 2001, TTY (360) 664-8885, or (360) 664-1820.

Submit Written Comments to: Art Farley, Prorate and Fuel Tax Services, P.O. Box 9036, Olympia, WA 98507-9036, e-mail afarley@dol.wa.gov, fax (360) 586-5905.

Date of Intended Adoption: March 28, 2001.

January 8, 2001

Thao Pham Manikhoth, Administrator  
Prorate and Fuel Tax Services



**AMENDATORY SECTION** (Amending Order PFT 90-05, filed 6/14/90, effective 7/15/90)

**WAC 308-78-010 Definitions.** (1) "Aircraft fuel" includes any combustible gas or liquid, which is normally defined as motor vehicle fuel under chapter 82.36 RCW and chapter 308-72 WAC or a special fuel under chapter 82.38 RCW ~~(;)~~ and chapter 308-78 WAC when ~~((it-is))~~ used to propel an aircraft.

(2) "User" means any person other than a distributor who is ~~((licensed))~~ certified to acquire aircraft fuel without payment of the aircraft fuel tax at time of acquisition.

(3) "Local service commuter" means an air taxi operator who operates at least five round trips per week between two or more points; publishes flight schedules which specify the times, days of the week, and points between which it operates; and whose aircraft has a maximum capacity of sixty passengers or eighteen thousand pounds of useful load.

~~(4) ("Operation for testing and experimental purposes" shall include only those flights conducted under either an experimental, research and development, or special air worthiness certificate issued by the FAA or other documented experimental or testing flights including the flight of other aircraft used in the test or experimental flight.~~

~~(5))~~ "Private, nonstate funded airfield" means an airport not eligible to receive state funding under chapter 47.68 RCW.

(5) "Department" means the department of licensing.

**AMENDATORY SECTION** (Amending WSR 99-19-097, filed 9/20/99, effective 10/21/99)

**WAC 308-78-020 Bond requirements and collection.**

~~(1) ((As an aircraft fuel tax distributor must I be bonded in order to receive a license?)) Are bonds required for aircraft fuel distributors? Yes, every aircraft fuel ~~((tax))~~ distributor must be ~~((licensed and))~~ bonded as ~~((is))~~ provided in chapter 82.36 RCW and/or chapter 82.42 RCW.~~

~~(2) Can the department collect on bonds for unpaid aircraft fuel taxes? Yes, the department may execute bonds on file under the provisions of chapters 82.36 and 82.42 RCW for unpaid aircraft fuel taxes ~~((owing under chapter 82.42 RCW)).~~~~

**AMENDATORY SECTION** (Amending WSR 99-19-097, filed 9/20/99, effective 10/21/99)

**WAC 308-78-030 Required reports.** (1) What reports are required by the department for aircraft fuel tax and when are they due? Every licensed distributor of aircraft fuel shall submit signed tax returns and schedules to the department ~~((of licensing))~~, on or before the 25th day of each month, or as required by the department. Forms shall be furnished or approved by the department.

~~(2) What if the payment due date falls on a Saturday, Sunday or state legal holiday? Payment is due by the state business day immediately preceding the due date. (For example, if the payment due date falls on Saturday, you must transfer the funds by Friday.)~~

~~(3) Is a report due if I have no activity for the month? Yes, a report shall be filed with the department for each calendar month even when no aircraft fuel was sold or used.~~

~~((3))~~ (4) Can tax return information be made available to other government agencies? Yes, the department routinely furnishes copies of schedules to government agencies or foreign jurisdictions.

**NEW SECTION**

**WAC 308-78-035 Minimum tax payment/refund.** What is the minimum tax payment or refund? Each tax return that declares a tax liability of ten dollars or less need not make remittance; conversely, a refund of ten dollars or less will not be allowed. A computation error on the tax return which results in an additional tax liability in the amount of ten dollars or less will be accepted without further collection action.

**AMENDATORY SECTION** (Amending WSR 99-19-097, filed 9/20/99, effective 10/21/99)

**WAC 308-78-040 Tax exempt ~~((transactions and invoice requirements))~~ sales by licensed distributors.** ~~((1))~~ When may a licensed distributor sell aircraft fuel without collecting the aircraft fuel tax? A licensed distributor may sell aircraft fuel without collecting the aircraft fuel tax, when delivery is made by the distributor to ~~((one))~~ any of the following:

- ~~((a))~~ (1) A destination outside the state;
- ~~((b))~~ (2) United States or foreign government agencies;
- ~~((c))~~ (3) Directly into the aircraft fuel tanks of equipment operated by air carriers, supplemental air carriers, and foreign flag carriers operating under part 121 of the Federal Aviation Regulations, and local service commuters;
- ~~((d))~~ (4) Another licensed distributor; ~~((or~~
- ~~((e))~~ (5) To a purchaser who delivers the fuel for export ~~((purposes (fuel must be unloaded at a location outside the state)))~~ under RCW 82.42.030 ~~((in the state into:~~
  - ~~(i) Purchaser's transportation equipment; and/or~~
  - ~~(ii) A common/contract carrier employed by the purchaser at a location outside the state.~~

~~(2) What invoices are required and how are they distributed? An original invoice must be furnished to the purchaser; the selling distributor as required by RCW 82.42.040 and WAC 308-78-070 must keep a copy of the invoice.~~

~~(3) What information must an invoice include? The selling distributor must issue to the purchaser an invoice, which shall contain at least the following:~~

- ~~(a) Name and address of seller;~~
- ~~(b) Name and address of purchaser;~~
- ~~(c) The date of delivery (month, day, and year);~~
- ~~(d) The location of the point of shipment, in words;~~
- ~~(e) The place of delivery, in words, if different from shipping point;~~
- ~~(f) Purchaser's method of transporting fuel (either customer equipment, common carrier, or pipeline, if by common carrier, common carrier's name);~~
- ~~(g) State or foreign jurisdiction of destination;~~

- (h) Name of product sold;
- (i) The quantity, in gallons, of product sold;
- (j) The price per gallon and total amount charged; and
- (k) The statement: "Ex Washington State Fuel Tax.") or 82.42.070; or
- (6) Into the bulk storage tank of a certified user.

**AMENDATORY SECTION** (Amending WSR 99-19-097, filed 9/20/99, effective 10/21/99)

**WAC 308-78-045 Tax exempt use and circumstances.** ~~((What are the conditions under which I can claim an exemption of aircraft fuel tax? Exemption from the aircraft fuel tax may be claimed for the uses specified in RCW 82.42.020 and 82.42.030 subject to the following conditions:~~

~~(1) Operation of aircraft by air carriers, supplemental air carriers, and foreign flag carriers, operating under part 121 of the Federal Aviation Regulations, and local service commuters;~~

~~(2) For testing and experimental purposes in the manufacture or remanufacture of aircraft and for flight operations of experimental testing following manufacture, repair prior to delivery to a customer or experimental testing of another aircraft;~~

~~(3) For aircraft crew training in Washington state for certified air carriers;~~

~~(4) When applying pesticides, herbicides or other agricultural chemicals and for flight operations as defined in RCW 82.42.020.)~~ **What are the conditions under which a refund of aircraft fuel tax can be claimed?** Refund of the aircraft fuel tax paid may be claimed for the following uses or circumstances:

(1) Operation of aircraft by air carriers, supplemental air carriers, and foreign flag carriers, operating under part 121 of the Federal Aviation Administration Regulations, and local service commuters.

(2) Testing and experimental purposes in the manufacture or remanufacture of aircraft and for flight operations or experimental testing following manufacture, repair prior to delivery to a customer, or experimental testing of another aircraft.

(3) Aircraft crew training in Washington state for certified air carriers.

(4) When applying pesticides, herbicides, or other agricultural chemicals under conditions defined in RCW 82.42.020.

(5) Exportation of fuel from this state for use outside this state under the same conditions as provided for the refund of motor vehicle fuel in chapter 82.36 RCW and special fuel in chapter 82.38 RCW.

(6) Use of fuel in nonhighway equipment, other than aircraft, as provided for the refund of motor vehicle fuel in chapter 82.36 RCW and special fuel in chapter 82.38 RCW.

(7) Sales to the United States or foreign government agencies by a distributor who has paid the aircraft fuel tax. The distributor shall file an exemption certificate provided by the department. This certificate shall contain an assignment to the distributor of the purchaser's right to a refund.

## NEW SECTION

**WAC 308-78-046 Tax exempt losses.** (1) **What is considered a tax exempt loss?** You may claim an exemption if fuel is destroyed through fire, lightning, flood, wind storm, explosion, accident, or other casualty.

(2) **May I claim an exemption for losses due to leakage?** Yes, if the verified leakage is five hundred gallons or more.

(3) **May I claim an exemption for losses of aircraft fuel due to evaporation, shrinkage, or unknown causes?** No, aircraft fuel losses due to evaporation, shrinkage, or unknown causes are not permitted.

(4) **What is acceptable proof of loss?** Acceptable proof of loss will consist of the following:

(a) An affidavit by a person having direct knowledge of the circumstances of the loss, explaining the circumstances surrounding the loss, quantity of fuel lost, fuel salvaged, disposition of salvaged fuel, and procedures used in determining the quantity of fuel lost;

(b) A signed statement by a federal or jurisdictional official who has authority to investigate fuel losses, or a witness to the loss;

(c) A bill of lading or shipping document;

(d) A statement by the licensee establishing ownership of the fuel at the time of loss.

(5) **How long must I retain my evidence substantiating the loss?** Documentary evidence substantiating losses shall be retained by the licensee for five years.

(6) **Am I liable for fuel taxes if one of my employees or agents causes a loss of fuel?** Yes, charges for losses made by employees or agents who fail to satisfactorily account for fuel shall be invoiced inclusive of the fuel tax. Other losses shall be substantiated by proof acceptable to the department.

**AMENDATORY SECTION** (Amending WSR 99-19-097, filed 9/20/99, effective 10/21/99)

**WAC 308-78-070 Records.** (1) **What records must a distributor, certified user, or consumer of aircraft fuel maintain?** The following records must be maintained:

(a) Physical inventories of bulk storage facilities and mobile storage facilities taken at the close of each calendar month;

(b) A record of fuel receipts together with invoices, bills of lading, transfer documents, and other documents relative to the acquisition of fuel;

(c) A record of fuel disbursements supported by sales invoices and other documents relative to the disbursements of fuel;

(d) ~~((An original invoice shall be issued at the time of each sale, or delivery, and shall show:~~

~~(i) The name of the distributor;~~

~~(ii) The date of delivery;~~

~~(iii) The name and address of the purchaser (address not required on credit card deliveries);~~

~~(iv) The location of the storage facility from which the fuel was withdrawn;~~

~~(v) The type or grade of fuel;~~

~~(vi) The number of gallons sold or delivered;~~  
~~(vii) The price per gallon and the total amount charged;~~  
~~(viii) The statement: "Ex Washington Aircraft Fuel Tax" for tax exempt sales. The distributor or user license number must be shown for all deliveries other than those made directly into the aircraft fuel tanks of unlicensed exempt carriers;~~

(e)) A withdrawal record covering their own total usage during the month. The withdrawal record shall contain the date of withdrawal, the location of the storage facility from which the fuel was withdrawn, the type or grade of fuel, and the number of gallons withdrawn;

~~((f))~~ (e) Each person claiming an exemption from the aircraft fuel tax shall keep records of each flight or series of flights for which tax exempt use is claimed. Such records shall include:

- (i) Flight or block time of each flight or series of flights;
- (ii) Type of aircraft;
- (iii) Purpose of each flight or series of flights;
- (iv) Dates;
- (v) Gallons consumed for each flight or series of flights.

(2) **How long must I retain my records?** Records shall be maintained and kept for a period of not less than five years in their original form. The department may make such examinations of the records, facilities, equipment, and aircraft of distributors, certified users and consumers of aircraft fuel as necessary in carrying out the provisions of this chapter.

#### NEW SECTION

##### **WAC 308-78-075 Invoices issued by licensees. (1)**

**When is an invoice issued?** Every licensee shall issue an invoice at the time of sale, distribution or use. If an electronic invoice is issued, a paper copy of the invoice must be produced if required by the department or to support a refund claim.

(2) **What information must appear on each invoice?** Each invoice must include the following information:

- (a) The name and address of the seller;
- (b) The name, address and aircraft fuel tax number, if applicable, of the purchaser for all deliveries other than those made directly into the aircraft fuel tanks of unlicensed exempt carriers;
- (c) The date of delivery (month, day and year);
- (d) The location of the point of shipment. Alphanumeric codes are not allowed;
- (e) The physical address of delivery, if different than the purchaser address, including the name of the state, Canadian Province, or foreign country. Alphanumeric codes are not allowed;
- (f) Name of carrier transporting fuel;
- (g) Name of product sold;
- (h) The gross number of U.S. gallons of product sold;
- (i) The price per gallon and the total amount charged;
- (j) A statement on the invoice indicating whether the fuel has been sold with or without the Washington state fuel tax;
- (k) In the case of a delivery onto a federally recognized Indian reservation or onto Indian country, the invoice must identify the state within the contiguous United States,

Hawaii, Alaska, District of Columbia, U.S. possession, or Canadian Province in which the delivery took place.

(3) **What happens if an invoice is lost or destroyed?** If an invoice is lost or destroyed, the seller shall issue a duplicate or copy containing all information that appeared on the original invoice. The copies shall be plainly marked "copy" or "duplicate."

(4) **What happens if an incorrect invoice is issued to the purchaser?** The seller must retrieve the incorrect invoice and issue a corrected invoice to the purchaser.

AMENDATORY SECTION (Amending WSR 99-19-097, filed 9/20/99, effective 10/21/99)

**WAC 308-78-080 Refunds. (1) What do I have to do to claim a refund for aircraft fuel?** In order to claim a refund for aircraft fuel tax, you shall file a claim upon forms provided by the department in the same manner and under the same conditions as provided for refund of motor vehicle fuel in RCW 82.36.310.

(2) ~~(What is considered a tax exempt refund? A refund of aircraft fuel tax, which has been collected, may be claimed on aircraft fuel that has been:~~

(a) ~~Used for purposes exempted under RCW 82.42.020, or 82.42.030 and WAC 308-78-040, 308-78-045 and 308-78-060;~~

(b) ~~Exported from this state for use outside this state under the same conditions as provided for refund of motor vehicle fuel in RCW 82.36.300. Any aircraft fuel carried from this state in the fuel tank of an aircraft shall not be considered as exported from this state;~~

(c) ~~Used in nonhighway equipment, other than aircraft, as provided for refund of motor vehicle fuel in RCW 82.36.280;~~

(d) ~~Sold to United States or foreign government agencies by a dealer who has paid the aircraft fuel tax. The dealer shall file an exemption certificate provided by the department. This certificate shall contain an assignment to the dealer of the purchaser's right to a refund. Each invoice covering such sale shall clearly state the fuel has been sold without the aircraft fuel tax.~~

(3)) **Is there a time limit to claim an aircraft fuel tax refund?** Yes, claims for refund may not be filed later than thirteen months from the date of purchase of such aircraft fuel under the same conditions as provided for motor vehicle fuel in RCW 82.36.330.

~~((4))~~ (3) **Can the department verify the validity of refund claims?** Yes, the department may examine the books and records of the claimant in order to establish the validity of any claim for refund under the same conditions as provided for motor vehicle fuel in RCW 82.36.340.

AMENDATORY SECTION (Amending WSR 99-19-097, filed 9/20/99, effective 10/21/99)

**WAC 308-78-090 Mitigation of penalties and/or interest. (1) Under what circumstances may fee, a penalty and/or interest be ~~((waived))~~ mitigated?** The department~~((; in its discretion;))~~ may mitigate, extinguish and/or adjust

fees, penalties, and/or interest arising from late or missing fuel tax returns, unpaid or underpaid taxes, lack of complete records ((to support reported fuel usage, or)), license revocation penalties((, when reasonable cause is shown by the taxpayer or as indicated from the records on file with the department that failure to comply with the requirements of this chapter was not intentional or unreasonable)) and assessments.

(2) How will the department determine whether fees, penalties and/or interest will be mitigated? The department ~~((, in its discretion, and after review of records furnished and/or tax returns available, may take into consideration a taxpayer's history of underpayments and overpayments, late payment(s), late filing of tax returns, or incomplete records in arriving at its decision to mitigate))~~ will review records, account history or other information in arriving at its decision.

(3) What happens if I do not pay my tax assessment on time? You will be assessed additional penalties and/or interest.

~~((4) Under what circumstances may assessed late payment penalties and/or interest be mitigated? The department, in its discretion, may mitigate late payment penalties and/or interest if the taxpayer provides reasonable cause for failure to make payment within a thirty-day period after service of an assessment.))~~

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-78-060 Tax exempt losses.

#### WSR 01-03-091

#### PROPOSED RULES

#### DEPARTMENT OF REVENUE

[Filed January 18, 2001, 11:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-21-089.

Title of Rule: WAC 458-20-169 ~~((Religious, charitable, benevolent, nonprofit service organizations and sheltered workshops))~~ Nonprofit organizations.

Purpose: Rule informs nonprofit organizations about their tax and tax-reporting responsibilities under Washington's tax system.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: RCW 82.04.327, 82.04.339, 82.04.3395, 82.04.363, 82.04.3651, 82.04.367, 82.04.368, 82.04.385, 82.04.4297, 82.04.431, 82.08.02573, 82.08.02915, 82.08.830, 82.12.02595, 82.12.02915, and 82.12.02917.

Summary: The rule is needed to help explain Washington taxes to nonprofit organizations that are often exempt from tax under other federal or state tax systems. The rule provides nonprofit organizations an overview of Washington

business, retailing and use taxes. It contains basic instructions for registering and filing Washington taxes and an updated discussion of nonprofit exemptions and deductions.

Reasons Supporting Proposal: The rule is being amended for statutory changes made for nonprofit organizations, particularly in the fundraising and donations areas.

Name of Agency Personnel Responsible for Drafting: Ed Ratcliffe, 1025 Union Avenue, #400, Olympia, WA, (360) 570-6126; Implementation: Claire Hesseholt, 1025 Union Avenue, #400, Olympia, WA, (360) 570-6124; and Enforcement: Russell Brubaker, 1025 Union Avenue, #400, Olympia, WA, (360) 570-6131.

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 458-20-169 provides instructions for most nonprofit organizations about their Washington tax obligations. It provides referrals to other rules, registration and filing information, an outline of Washington taxes and when these taxes are generally due, an updated discussion of the exemptions for fundraising and contributions, and a more thorough discussion of exemptions and deductions. The rule's purpose is to provide nonprofit organizations an overview of their Washington tax obligations. The anticipated effect is that more nonprofit organizations will be able to determine their Washington tax liabilities and, in particular, find those exemptions and deductions available to them.

Proposal Changes the Following Existing Rules: This is a proposal to revise a current rule, WAC 458-20-169 Religious, charitable, benevolent, nonprofit service organizations, and sheltered workshops. The department is proposing to change the title to "Nonprofit organizations" to better reflect the subject matter of the rule. The other changes are to update the rule to incorporate recent legislation (e.g., chapter 358, Laws of 1999, and chapter 336, Laws of 1998, regarding fundraising activities) and provide a more complete and coherent explanation of Washington's tax structure for nonprofit organizations.

The department is proposing a substantial restructuring of the information provided in this rule. The purpose for this restructuring is to provide the information in a more user-friendly manner. As a result, the information provided in the existing rule has been "~~struck out~~" in its entirety, and the proposed language in its entirety denoted with "underlining." This was done not to necessarily indicate legislative or policy changes, but to make it easier for the reader to accurately determine the provisions of the proposed rule.

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

RCW 34.05.328 does not apply to this rule adoption. This is not a "significant legislative rule." The requirements outlined in the rule are specifically required by statute.

Hearing Location: Department of Revenue Conference Room, Capital Plaza Building, 4th Floor, 1025 East Union

Avenue, Olympia, WA 98504, on February 27, 2001, at 10 a.m.

Assistance for Persons with Disabilities: Contact Barbara Vane no later than ten days before the hearing date, TDD 1-800-451-7985, or (360) 570-6182.

Submit Written Comments to: Ed Ratcliffe, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail [edr@dor.wa.gov](mailto:edr@dor.wa.gov), by February 27, 2001.

Date of Intended Adoption: March 14, 2001.

January 18, 2001

Claire Hesselholt, Rules Manager

Legislation and Policy Division

**AMENDATORY SECTION** (Amending WSR 91-21-001, filed 10/3/91, effective 11/3/91)

**WAC 458-20-169** (~~Religious, charitable, benevolent,~~) ~~Nonprofit~~ (~~service~~) ~~organizations~~ (~~and sheltered workshops~~). (1) **Introduction.** (~~Religious, charitable, benevolent, and nonprofit service organizations are subject to business and occupation tax, retail sales tax, and use tax, unless otherwise provided by this section:~~

(2) **Definitions:**

(a) "Sheltered workshops" is defined by the law to mean the performance of business activities of any kind on or off the premises of such nonprofit organizations which are performed for the primary purpose of:

(i) Providing gainful employment or rehabilitation services to the handicapped as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist; or

(ii) Providing evaluation and work adjustment services for handicapped individuals.

(b) "Health or social welfare organization" means an organization which renders health or social welfare services as defined below, which is a not-for-profit corporation under chapter 24.03 RCW and which is managed by a governing board of not less than eight individuals none of whom is a paid employee of the organization or which is a corporation solely under chapter 24.12 RCW. In addition, in order to be exempt of business and occupation tax under RCW 82.04.4297, a corporation shall satisfy the following conditions:

(i) No part of its income may be paid directly or indirectly to its members, stockholders, officers, directors, or trustees except in the form of services rendered by the corporation in accordance with its purposes and bylaws;

(ii) Salary or compensation paid to its officers and executives must be only for actual services rendered, and at levels comparable to the salary or compensation of like positions within the public service of the state;

(iii) Assets of the corporation must be irrevocably dedicated to the activities for which the exemption is granted and, on the liquidation, dissolution, or abandonment by the corporation, may not inure directly or indirectly to the benefit of any member or individual except a nonprofit organization,

association, or corporation which also would be entitled to the exemption;

(iv) The corporation must be duly licensed or certified where licensing or certification is required by law or regulation;

(v) The amounts received qualifying for exemption must be used for the activities for which the exemption is granted;

(vi) Services must be available regardless of race, color, national origin, or ancestry; and

(vii) The director of revenue shall have access to its books in order to determine whether the corporation is entitled to this exemption.

(e) "Health or social welfare services" include and are limited to:

(i) Mental health, drug, or alcoholism counseling or treatment;

(ii) Family counseling;

(iii) Health care services;

(iv) Therapeutic, diagnostic, rehabilitative, or restorative services for the care of the sick, aged, or physically disabled, developmentally disabled, or emotionally disabled individuals;

(v) Activities which are for the purpose of preventing or ameliorating juvenile delinquency or child abuse, including recreational activities for those purposes;

(vi) Care of orphans or foster children;

(vii) Day care of children;

(viii) Employment development, training, and placement; and

(ix) Legal services to the indigent;

(x) Weatherization assistance or minor home repairs for low-income homeowners or renters;

(xi) Assistance to low-income homeowners and renters to offset the cost of home heating energy, through direct benefits to eligible households or to fuel vendors on behalf of eligible households; and

(xii) Community services to low-income individuals, families and groups which are designed to have a measurable and potentially major impact on the poverty in the communities of the state.

(d) A "public benefit organization" means an organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986 as in effect on January 1, 1991.

(i) An organization qualifies as a public benefit organization when the organization has received from the Internal Revenue Service a ruling of tax exemption under section 501(c)(3) of the Internal Revenue Code.

(ii) An organization qualifies as a public benefit organization if the organization is one chapter or unit in a larger organization, like a church or the boy scouts, and the larger organization has been issued a group section 501(c)(3) exemption ruling by the Internal Revenue Service.

(iii) An organization qualifies as a public benefit organization if, prior to the auction, the organization has made application to the Internal Revenue Service for section 501(c)(3) exemption and the effective date of the exemption, when granted, is prior to the auction.

(e) An "auction" means the sale of property and/or services to the highest bidder.

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(f) The phrase "more than one auction per year" means more than one auction in any calendar year.

(g) The phrase "conduct or participate in" means actively holding a fund-raising auction. The mere attendance, purchase of items, or the donation of articles to be sold at an auction conducted by others, is not active participation in an auction.

(h) The phrase "not extend over a period of more than two days" means that an auction is not conducted on more than two consecutive or nonconsecutive calendar days in any seven-calendar-day period.

(3) **Fund-raising.** The following applies to the fund-raising activities of religious, charitable, benevolent, and non-profit service organizations:

(a) **Public benefit organization auctions.** Chapter 51, Laws of 1991, effective April 26, 1991, provides to public benefit organizations an exemption from B&O tax and retail sales tax when conducting or participating in an auction.

(i) **B&O tax.** Amounts received from sales by a public benefit organization conducting or participating in an auction are exempt from B&O tax, if:

(A) The organization does not conduct or participate in more than one auction per year; and

(B) The auction does not extend over a period of more than two days.

(ii) **Retail sales tax.** Retail sales tax does not apply to sales by a public benefit organization conducting or participating in an auction, if:

(A) The organization does not conduct or participate in more than one auction per year; and

(B) The auction does not extend over a period of more than two days.

(iii) **Use tax.** An article sold at an auction conducted or participated in by a public benefit organization is subject to use tax. The use tax on the article purchased at the auction is paid by the buyer. The use tax due from the buyer is collected at time of registration or licensing in the case of an auto, boats, etc., purchased at the auction. The use tax due on other items purchased at an auction is remitted by the buyer to the department. Because the use tax is a complementary tax to the retail sales tax and the legislature intended to exempt an auctioning organization from the collection responsibilities of retail sales tax, the auctioning organization also need not collect the use tax. See: WAC 458-20-178.

(iv) **Examples.**

(A) An organization which has been ruled tax exempt under section 501 (c)(3) by the Internal Revenue Service conducts an auction for fund raising. This is the only auction conducted by the organization in the calendar year and it is conducted over a two-day period. The proceeds of the auction are exempt from B&O tax and the sales at the auction are exempt from retail sales tax.

(B) At the auction in example (a)(iv)(A) of this subsection, an automobile has been donated to the organization and is sold. The buyer of the automobile is liable for use tax on the vehicle purchased.

(C) At the auction in example (a)(iv)(A) of this subsection, tickets for a dinner before the auction and a dance after the auction are sold by the organization. The exemption from

tax only applies to the auction activities. The dinner-dance activities are taxable when the proceeds, as measured by the lesser of the selling price or the fair market value, exceeds one thousand dollars. See (d) of this subsection.

(D) A public benefit organization has as part of its structure various suborganizations that have no separate identity or purpose, like a hospital guild. Both the larger organization and the suborganizations might conduct various fund-raising activities, including auctions. When the Internal Revenue Service does not consider the suborganizations as separate entities in a single 501 (c)(3) exemption, both the larger organization and the suborganizations are collectively entitled to one exempt auction. If a second auction is conducted within a calendar year by either the larger organization or suborganizations both auctions are taxable as provided in (d) of this subsection. However, if a suborganization is considered a separate 501 (c)(3) entity, as evidenced by a group exemption issued by the Internal Revenue Service, then the larger organization and each suborganization included as part of a group section 501 (c)(3) exemption are each entitled to conduct one exempt auction per calendar year.

(b) **Meals.** Organizations serving meals for fund-raising purposes are not engaged in the business of making sales at retail and are not required to collect the retail sales tax upon such sales, nor pay the business and occupation tax, if such meals are served no more frequently than once every two weeks and the gross receipts are one thousand dollars or less.

(c) **Bazaars/rummage sales.** Organizations conducting bazaars or rummage sales who are not generally engaged in the business of making sales at retail are not required to collect the retail sales tax nor pay the business and occupation tax if such bazaars or rummage sales are conducted no more than twice per year and do not extend over a period of more than two days each, and if the gross receipts from each such bazaar or rummage sale are one thousand dollars or less.

(d) **Fund-raising drives/concessions.** When organizations make retail sales in the course of annual fund-raising drives, other than a public benefit organization auction as provided above, or make such sales through concessions operated no more than twice a year which do not extend over a period of more than two days each, for the support of various benevolent, athletic, recreational, or cultural programs, the retail sales tax and business and occupation tax need not be accounted for if the gross receipts from each such annual fund-raising drive or concession are one thousand dollars or less.

(i) Persons who serve fund-raising meals, conduct bazaars/rummage sales, or fund-raising drives/concessions more frequently than provided in (a), (b), or (c) of this subsection, or receive more than the amounts allowed therein, are required to report and pay tax upon their gross receipts from all such activities.

(ii) When an organization conducts a taxable fund-raising event, the measure of the tax for all purposes is the lesser of the selling price or the fair market value of the item sold. The excess of the selling price over the fair market value is a nontaxable donation. The department will accept an organization's reasonable allocation of the fair market value and donation portions of the sales proceeds. When a merchant or professional donates an item to be sold, the fair market value

is its ordinary retail selling price. Donors of items to be sold are not liable for use tax on the items donated. The fair market value of homemade items, items which are not commercially sold (e.g., art work or pottery) is the value of materials used. Some items may have no fair market value. For example, the right to conduct a school band at a concert, the right to serve as honorary mayor for a day, or the right to be the dinner guest at someone's home each has no fair market value. Receipts from items sold which have no fair market value are considered nontaxable donations to the organization. An organization may advertise that the selling price includes retail sales tax. An organization may "advertise" by posting a sign that applicable retail sales tax is included in the listed price, or, the organization may add a statement in its written advertising that applicable sales tax will be included in the price.

**Fund raising—Proceeds from a nonauction sale**

Item	Donor	FMV	Sales Price	Donation	Retail	Service B&O
Golf clubs	ABC Golf	\$300	\$250	0	\$250	0
Dinner for 6 Browns'	Mrs. Brown	0	\$60	\$60	0	0
Simple will	Jane Smith	\$75	\$50	0	0	\$50
Principal for the day	School	0	\$100	\$100	0	0
Boat & Motor	Goe Estate	\$750	\$825	\$75	\$750	0
Pottery	Art Student	\$5	\$25	\$20	\$5	0
Weekend use of cabin	Mr. Jones	\$200	\$250	\$50	\$200	0
<b>TOTAL</b>		<b>\$1,330</b>	<b>\$1,560</b>	<b>\$305</b>	<b>\$1,205</b>	<b>\$50</b>

In this example, retail sales tax is due on \$1,205. If the selling price had included sales tax and the sales tax rate is 7.8%, sales tax due of \$87.19 is computed as follows: \$1,205 divided by 1.078=\$1,117.81, the new tax measure. \$1,117.81 x .078=\$87.19. Retailing and service B&O receipts in the amounts of \$1,205 and \$50 respectively, must be reported. If the organization's total gross receipts, other than dues and donations, exceeds \$12,000 in the calendar year, B&O tax is due.

(4) Prepared meals for certain persons. Neither the retail sales tax nor the use tax applies to prepared meals provided to senior citizens, disabled persons, or low-income persons by not-for-profit organizations organized under chapter 24.03 or 24.12 RCW.

(5) Sheltered workshops. The gross income received by nonprofit organizations from the business activities of "sheltered workshops" is exempt from the business and occupation tax.

(6) Health or social welfare services. In computing business tax there may be deducted amounts received from the United States or any instrumentality thereof or from the state of Washington or any municipal corporation or political subdivision thereof as compensation for, or to support, health or social welfare services rendered by a health or social welfare organization or by a municipal corporation or political subdi-

vision, except deductions are not allowed for amounts that are received under an employee benefit plan.

(7) Other activities. In every case where such organizations conduct business activities other than as outlined above, the retail sales tax and business and occupation tax are fully applicable to the gross sales made and merchandise may be purchased for resale without paying the retail sales tax by furnishing vendors with resale certificates as prescribed in WAC 458-20-102.) Unlike most states' and the federal tax systems, Washington's tax system, specifically its business tax, applies to nonprofit organizations. Washington's business tax is imposed upon all entities that generate gross receipts or proceeds, unless there is a specific statutory exemption or deduction. This rule reviews how the business and occupation (B&O), retail sales, and use taxes apply to activities often performed by nonprofit organizations. The rule describes the most common exemptions and deductions specifically provided to nonprofit organizations by state law. Other exemptions and/or deductions not specific to nonprofit organizations may also apply.

Other rules that may be relevant to specific activities of nonprofit organizations include the following:

- (a) Artistic or cultural organizations, WAC 458-20-249;
- (b) Hospitals, nursing homes, and adult family homes, WAC 458-20-168;
- (c) Organizations and clubs providing amusement, recreation, or physical fitness services, WAC 458-20-183;
- (d) Organizations holding trade shows, conventions, or seminars, WAC 458-20-256; and
- (e) Membership organizations should see WAC 458-20-183 for more specific guidance about the deduction of membership dues and initiation fees.

(2) Registration requirements. Nonprofit organizations with \$12,000 or more per year in gross receipts from sales, and/or gross income from services subject to the B&O tax or who are required to collect or pay to the department of revenue (department) retail sales tax or any other tax or fee which the department administers (regardless of the level of annual gross receipts) must register with the department. Nonprofit organizations that have gross receipts of less than \$12,000 per year and who are not required to collect retail sales tax or any other tax or fee administered by the department are not required to register with the department. For more details on registration requirements see WAC 458-20-101 (Tax registration and tax reporting).

(3) Filing tax returns. Nonprofit organizations making retail sales that require the collection of the retail sales tax must file a tax return, regardless of the annual level of gross receipts or gross income and whether or not any B&O tax is due. (See also WAC 458-20-104 (Small business tax relief based on volume of business).) The combined excise tax return with payment is generally filed on a monthly basis. However, under certain conditions the department may authorize taxpayers to file and remit payment on either a quarterly or annual basis. Refer to WAC 458-20-22801 for more information regarding how reporting frequencies are assigned.

Nonprofit organizations that do not have retail sales tax to remit, but are required to register, do not have to file a tax

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return if they meet certain statutory requirements (e.g., annual gross income of less than \$28,000) and are placed on an "active nonreporting" status by the department. Refer to WAC 458-20-101 for more information regarding the "active nonreporting" status.

(4) General tax reporting responsibilities. While Washington state law provides some tax exemptions and deductions specifically targeted toward nonprofit organizations, these organizations otherwise have the same tax-reporting responsibilities as those of for-profit organizations.

(a) Business and occupation tax. Chapter 82.04 RCW imposes a B&O tax upon all persons engaged in business activities within this state, unless the income is specifically exempt or deductible under state law. The B&O tax applies to the value of products, gross proceeds of sales, or gross income of the business, as the case may be. RCW 82.04.220.

(i) Common B&O tax classifications. Chapter 82.04 RCW provides a number of classifications that apply to specific activities. The most common B&O tax classifications that apply to income received by nonprofit organizations are the service and other activities, retailing, and wholesaling classifications. If an organization engages in more than one kind of business activity, the gross income from each activity must be reported under the appropriate tax classification.

(ii) Measure of tax. The most common measures of the B&O tax are "gross proceeds of sales" and "gross income of the business." RCW 82.04.070 and 82.04.080, respectively. These measures include the value proceeding or accruing from the sale of tangible personal property or services rendered without any deduction for the cost of property sold, cost of materials used, labor costs, discounts paid, delivery costs, taxes, losses or any other expenses.

(b) Retail sales tax. A nonprofit organization must collect and remit retail sales tax on all retail sales, unless the sale is specifically exempt by statute. Examples of retail sales tax exemptions that commonly apply to nonprofit organizations are those for sales of certain food products (see WAC 458-20-244 for more information regarding sales of food products), construction materials purchased by a health or social welfare organization for new construction of alternative housing for youth in crisis, to be licensed as a family foster home (RCW 82.08.02915), and fund-raising activities (see subsection (5)(e) of this rule). New construction includes renovating an existing structure to provide new housing for youth in crisis.

A nonprofit organization must pay retail sales tax when it purchases goods or retail services for its own use as a consumer, unless the purchase is specifically exempt by statute. Items purchased for resale without intervening use are purchases at wholesale and are not subject to the retail sales tax. The purchaser should provide the seller with a resale certificate. (See WAC 458-20-102 for information regarding resale certificates.)

(c) Use tax. The use tax is imposed on every person, including nonprofit organizations, using tangible personal property within this state as a consumer, unless such use is specifically exempt by statute. The use tax applies only if retail sales tax has not previously been paid on the item. The

rate of tax is the same as the sales tax rate that applies at the location where the property is first used.

A common application of the use tax occurs when items are purchased from an out-of-state seller who has no presence in Washington. Because the out-of-state seller is under no obligation to collect Washington's retail sales or use tax, the buyer is statutorily required to remit use tax directly to the department. (See also WAC 458-20-178 for more information regarding the use tax.)

Except for fund-raising, exemptions from use tax generally correspond to the retail sales tax exemptions. For example, a use tax exemption for construction materials acquired by a health or social welfare organization for new construction of alternative housing for youth in crisis, to be licensed as a family foster home, RCW 82.12.02915, corresponds with the retail sales tax exemption described in subsection (4)(b) above for purchasing these construction materials.

(i) Use tax exemption for donated items. RCW 82.12.02595 provides a use tax exemption for property donated to a nonprofit charitable organization. This exemption is available for the nonprofit charitable organization, and the donor if the donor did not previously use the item as a consumer. It also applies to the use of property by a donor who is incorporating the property into a nonprofit organization's real or personal property for no charge.

The exemption also applies to another person using property originally donated to a charitable nonprofit organization that is subsequently donated or bailed to that person by the charitable nonprofit organization, provided that person uses the property in furtherance of the charitable purpose for which the property was originally donated to the charitable nonprofit organization. For example, a hardware store donates an industrial pressure washer to a nonprofit community center for neighborhood cleanup, the community center bails this washer to people enrolled in its neighborhood improvement group for neighborhood clean-up projects. No use tax is due from any of the participants in these transactions. An example of a gift that would not qualify is when a car is donated to a church for its staff and the church gives that car to its pastor. The pastor must pay use tax on the car because it serves multiple purposes. It serves the church's charitable purpose, but it also acts as compensation to the pastor and is available for the pastor's personal use. The subsequent donation of property from the charity to another person must be solely for a charitable purpose. If the property is donated or bailed to the third party for a charitable purpose in line with the nonprofit organization's charitable activities, generally, no additional proof is required that this was the charitable purpose for which the property was originally donated.

(ii) Use tax implications with respect to fund-raising activities. Subsection (5)(e) below explains that a retail sales tax exemption is available for certain fund-raising sales. However, there is no comparable use tax exemption provided to the buyer/user of property purchased at these fund-raising sales. While the nonprofit organization is under no obligation to collect use tax from the buyer, the organization is encouraged to inform the buyer of the buyer's possible use tax obligation.



**(5) Exemptions.** The following sources of income are specifically exempt from tax. As such they should not be included or reported as gross income if the organization is required to file a combined excise tax return.

**(a) Adult family homes.** The B&O tax does not apply to income earned by a licensed adult family home or an adult family home exempt from licensing.

**(b) Day care provided by churches.** The B&O tax does not apply to income derived by a church for the care of children of any age for periods of less than twenty-four hours, provided the church is exempt from property tax under RCW 84.36.020. RCW 82.04.339.

**(c) Child care resource and referral services.** The B&O tax does not apply to nonprofit organizations with respect to amounts received for child care resource and referral services. RCW 82.04.3395.

**(d) Camp or conference centers.** RCW 82.04.363 and 82.08.830 respectively provide B&O and retail sales exemptions to amounts received by a nonprofit organization from the sale or furnishing of certain items or services at a camp or conference center conducted on property exempt from the property tax under RCW 84.36.030 (1), (2), or (3).

Income derived from the sale of the following items and services is exempt:

**(i) Lodging, conference and meeting rooms, camping facilities, parking, and similar licenses to use real property;**

**(ii) Food and meals;**

**(iii) Books, tapes, and other products that are available exclusively to the participants at the camp, conference, or meeting and are not available to the public at large.**

**(e) Fund-raising.** RCW 82.04.3651 provides a B&O tax exemption for amounts received from certain fund-raising activities. RCW 82.08.02573 provides a comparable retail sales tax exemption.

It is important to note that these exemptions apply only to the fund-raising income received by the nonprofit organization. For example, the commission income received by a nonprofit organization selling books owned by a for-profit entity on a consignment basis is exempt of tax if the statutory requirements are satisfied. The nonprofit organization is generally responsible for collecting and remitting retail sales tax upon the gross proceeds of sales when selling items for another person (see WAC 458-20-159).

**(i) What nonprofit organizations qualify?** Nonprofit organizations that qualify for this exemption are those that are: (A) A tax-exempt nonprofit organization described by section 501 (c)(3) (educational and charitable), (4) (social welfare), or (10) (fraternal societies operating as lodges) of the Internal Revenue Code;

(B) A nonprofit organization that would qualify for tax exemption under these codes except that it is not organized as a nonprofit corporation; or

(C) A nonprofit organization that does not pay its members, stockholders, officers, directors, or trustees any amounts from its gross income, except as payment for services rendered, does not pay more than reasonable compensation to any person for services rendered, and does not engage in a substantial amount of political activity. Political activity includes, but is not limited to, influencing legislation and par-

ticipating in any campaign on behalf of any candidate for political office.

**(ii) Qualifying fund-raising activities.** For the purpose of this exemption, "fund-raising activity" means soliciting or accepting contributions of money or other property, or activities involving the anticipated exchange of goods or services for money between the soliciting organization and the organization or person solicited, for the purpose of furthering the goals of the nonprofit organization.

**(iii) Contributions of money or other property.** The term contributions includes grants, donations, endowments, scholarships, gifts, awards, and any other transfer of money or other property by a donor, provided the donor receives no significant goods, services, or benefits in return for making the gift.

It is not unusual for the person making a gift to require some accountability for how the gift is used as a condition for receiving the gift or future gifts. Such gifts remain exempt, provided the "accountability" required does not result in a direct benefit to the donor (i.e., a report on the soil contamination levels of land owned by the donor, medical services provided to the donor or the donor's family, or market research benefiting the donor directly). This "accountability" can take the form of conditions or restrictions on the use of the gift for specific charitable purposes or can take the form of written reports accounting for the use of the gift. Public acknowledgment of a donor for the gift does not result in a significant service or benefit simply because the gift is publicly acknowledged.

**(iv) Nonqualifying activities.** Fund-raising activity does not include the operation of a regular place of business in which services are provided or sales are made during regular hours such as a bookstore, thrift shop, restaurant, legal or health clinic, or similar business. It also does not include the operation of a regular place of business from which services are provided or performed during regular hours such as the provision of retail, personal, or professional services.

Regular hours depend on the type of business being conducted. For example, a nonprofit organization that makes catalog sales throughout the year with a 24-hour telephone line for taking orders has a regular place of business at the location where the sales orders are processed and regular hours of 24 hours a day.

**(v) Fund-raising sales by libraries.** RCW 82.04.3651 specifically provides that the sale of used books, used videos, used sound recording, or similar used information products in a library is not the operation of a regular place of business, if the proceeds are used to support the library. The library must be a free public library supported in whole or in part with money derived from taxes. RCW 27.12.010.

**(f) Student loan services.** RCW 82.04.367 provides a B&O tax exemption for the gross income of nonprofit organizations that are exempt from federal income tax under section 501 (c)(3) of the Internal Revenue Code that:

**(i) Are guarantee agencies under the federal guaranteed student loan program or that issue debt to provide or acquire student loans; or**

(ii) Provide guarantees for student loans made through programs other than the federal guaranteed student loan program.

(g) **Credit and debt services.** RCW 82.04.368 provides a B&O tax exemption for amounts received by nonprofit organizations for providing specialized credit and debt services. These services include:

(i) Presenting individual and community credit education programs including credit and debt counseling;

(ii) Obtaining creditor cooperation allowing a debtor to repay debt in an orderly manner;

(iii) Establishing and administering negotiated repayment programs for debtors; and

(iv) Providing advice or assistance to a debtor with regard to (g)(i), (ii), or (iii) of this subsection.

(h) **Sheltered workshops.** RCW 82.04.385 provides a B&O tax exemption for amounts received by a nonprofit organization for operating a sheltered workshop.

(i) **What is a sheltered workshop?** A sheltered workshop is that part of the nonprofit organization engaged in business activities that are performed primarily to provide evaluation and work adjusted services for a handicapped person or to provide gainful employment or rehabilitation services to a handicapped person. The sheltered workshop can be maintained on or off the premises of the nonprofit organization.

(ii) **What is meant by "gainful employment or rehabilitation services to a handicapped person"?** Gainful employment or rehabilitation services must be an interim step in the rehabilitation process which is provided because the person cannot be readily absorbed into the competitive labor market or because employment opportunities for the person do not exist during that time in the competitive labor market.

"Handicapped," for the purposes of this exemption, means a physical or mental disability that restricts normal achievement, including medically recognized addictions and learning disabilities. However, this term does not include social or economic disadvantages that restrict normal achievement (e.g., prior criminal history or low-income status).

(i) **Group training homes.** RCW 82.04.385 provides a B&O tax exemption for amounts received from the department of social and health services for operating a nonprofit group training home. The amounts excluded from gross income must be used for the cost of care, maintenance, support, and training of developmentally disabled individuals. A nonprofit group training home is an approved nonsectarian facility equipped, supervised, managed, and operated on a full-time nonprofit basis for the full-time care, treatment, training, and maintenance of individuals with developmental disabilities.

(6) **B&O tax deduction of government payments made to health or social welfare organizations.** RCW 82.04.4297 provides a B&O tax deduction to health or social welfare organizations for amounts received from the United States, any instrumentality of the United States, the state of Washington, or any municipal corporation or political subdivision of the state of Washington as compensation for health or social welfare services. A deduction is not allowed, how-

ever, for amounts that are received under an employee benefit plan. These deductible amounts should be included in the gross income reported on the return, and then deducted on the return when determining the amount of the organization's taxable income.

(a) **What is a health or social welfare organization?** A health or social welfare organization is a nonprofit organization providing health or social welfare services that is also:

(i) A corporation sole under chapter 24.12 RCW or a not-for-profit corporation under chapter 24.03 RCW. It does not include a corporation providing professional services authorized under chapter 18.100 RCW;

(ii) Governed by a board of not less than eight individuals who are not paid corporate employees when the organization is a not-for-profit corporation;

(iii) Not paying any part of its corporate income directly or indirectly to its members, stockholders, officers, directors, or trustees except as executive or officer compensation or as services rendered by the corporation in accordance with its purposes and bylaws to a member, stockholder, officer, or director or as an individual;

(iv) Only paying compensation to corporate officers and executives for actual services rendered. This compensation must be at a level comparable to like public service positions within Washington;

(v) Irrevocably dedicating its corporate assets to health or social welfare activities. Upon corporate liquidation, dissolution, or abandonment, any distribution or transfer of corporate assets may not inure directly or indirectly to the benefit of any member or individual, except for another health or social welfare organization;

(vi) Duly licensed or certified as required by law or regulation;

(vii) Using government payments to provide health or social welfare services;

(viii) Making its services available regardless of race, color, national origin, or ancestry; and

(ix) Provides access to the corporation's books and records to the department's authorized agents upon request.

(b) **Qualifying health or welfare services.** Health or social welfare services are limited exclusively to the following services:

(i) Mental health, drug, or alcoholism counseling or treatment;

(ii) Family counseling;

(iii) Health care services;

(iv) Therapeutic, diagnostic, rehabilitative or restorative services for the care of the sick, aged, physically-disabled, developmentally-disabled, or emotionally-disabled individuals;

(v) Activities, including recreational activities, intended to prevent or ameliorate juvenile delinquency or child abuse;

(vi) Care of orphans or foster children;

(vii) Day care of children;

(viii) Employment development, training, and placement;

(ix) Legal services to the indigent;

(x) Weatherization assistance or minor home repairs for low-income homeowners or renters;

(xi) Assistance to low-income homeowners and renters to offset the cost of home heating energy, through direct benefits to eligible households or to fuel vendors on behalf of eligible households; and

(xii) Community services to low-income individuals, families and groups that are designed to have a measurable and potentially major impact on the poverty in Washington.

**WSR 01-03-097**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
 [Filed January 19, 2001, 8:59 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-23-063.

Title of Rule: Chapter 392-151 WAC, Traffic safety—School safety patrol.

Purpose: To revise chapter 392-151 WAC to accept more highly reflective and fluorescent colors for the safe operation of school patrol. To reduce the risk of pedestrian incident by providing more visible uniform and flag color.

Statutory Authority for Adoption: RCW 46.61.385.

Summary: Accept more highly reflective materials and colors for school patrol safety.

Reasons Supporting Proposal: School zone information shows high risk for pedestrians and the need for highly reflective, fluorescent color to be worn.

Name of Agency Personnel Responsible for Drafting: Linda Harrison, Office of Superintendent of Public Instruction, (360) 586-7436; Implementation: Tom Kelly, Office of Superintendent of Public Instruction, (360) 753-1142; and Enforcement: Sue Carnahan, Office of Superintendent of Public Instruction, (360) 753-0235.

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: The current rule describes the colors to be used by the school patrol in a limited description with outdated materials. The Washington Traffic Safety Commission and Department of Transportation have recently used, with great success, a more reflective, fluorescent material and bright color to produce a more visible pedestrian which in turn will lower the pedestrian's risk at a school zone. This reflective material and bright color combination will be used to produce the safety uniform and flags used by the school patrol.

Proposal Changes the Following Existing Rules: The change allows for the reflective material and fluorescent color.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There should be no economic impact.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Wanamaker Room, Old Capitol Building, P.O. Box 47200, Olympia, WA 98504-7200, on March 1, 2001, at 9 a.m.

Assistance for Persons with Disabilities: Contact Sheila Emery by February 15, 2001, TDD (360) 664-3631.

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 February 28, 2001.

Date of Intended Adoption: March 2, 2001.

January 19, 2001  
 Dr. Terry Bergeson  
 Superintendent of  
 Public Instruction

AMENDATORY SECTION (Amending Order 80-22, filed 7/9/80)

**WAC 392-151-090 Standard uniforms.** The standard uniform for school patrol members shall be a badge, vest, and/or raincoat and shall be worn only during a patrol function. A helmet may be used as part of the standard uniform.

The helmet when used shall be fluorescent orange, white, red, or yellow. For additional visibility during hours of darkness, reflective tape may be added to the uniform.

The school patrol vest shall be fluorescent or neon orange, yellow or lime with reflective (~~white~~) bands, approved by the superintendent of public instruction.

The raincoat shall be fluorescent orange, red, or yellow.

AMENDATORY SECTION (Amending WSR 91-15-016, filed 7/10/91, effective 8/10/91)

**WAC 392-151-095 Equipment.** Each school patrol member, while on duty, shall have a fluorescent or neon flame orange or a red flag of color-fast material not less than 14 inches by 16 inches bearing the word "STOP" in white or contrasting lettering and attached to a staff not less than 40 inches long. For additional visibility during hours of darkness, reflective tape may be added to the flag. No additions shall be added that will compromise the message and intent of the school patrol equipment.

All flags shall be displayed by the school patrol at a 45-degree angle extending toward the center of the street or highway. The purpose of the flag is to increase visibility and give warning to approaching motorists.

**WSR 01-03-100**  
**PROPOSED RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Commission Docket No. UT-990146—Filed January 19, 2001, 12:23 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-09-027.

Title of Rule: Chapter 480-120 WAC, Telecommunications—Operations.

**Purpose:** To conduct a general revision of the rules and to implement the requirements of Executive Order 97-02, requiring agencies to review significant rules for need, effectiveness and efficiency, clarity, intent and statutory authority, cost and fairness. This included reviewing whether current rules provided the results that they were originally intended to achieve and whether the rules are consistent with laws and with appropriate and lawful policies.

**Statutory Authority for Adoption:** RCW 80.01.040 General, 80.04.160 Utility—Rules and regulations.

**Statute Being Implemented:** RCW 80.04.300 through 80.04.330.

**Summary:** See Explanation of Rule below.

**Reasons Supporting Proposal:** The proposed rule revisions improve the effectiveness of the rules, and ensure that they are serving their intended purpose. The proposed revisions are a result of five stakeholder workshops held May 1999, March, April and May 2000, written comments filed, and discussions with stakeholders and staff.

**Name of Agency Personnel Responsible for Drafting:** Bob Shirley, 1300 South Evergreen Park Drive S.W., Olympia, WA 98503, (360) 664-1292; **Implementation and Enforcement:** Carole J. Washburn, Secretary, 1300 South Evergreen Park Drive S.W., Olympia, WA 98503, (360) 664-1174.

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

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** All provisions currently codified in chapter 480-120 WAC are under review. The review, under Docket No. UT-990146, considers whether substantive changes or additional rules are required. Current rules have been reviewed to consider whether they provide the results that they were originally intended to achieve and whether the rules are consistent with laws and with appropriate and lawful policies. New rules have been added to ensure clear communication of policies, processes, and procedures or to provide information important to regulated companies and the customers they serve.

Sixteen rules are being proposed for amendment, repeal, or adoption.

**WAC 480-120-011** Application of rules, amends rule to state that the chapter is applicable to all telecommunications companies, and adds that the chapter is applicable to customers and applicants for service.

**WAC 480-120-015** Exemptions from rules, new section to provide guidelines for evaluating requests for exemptions from rules.

**WAC 480-120-016** Additional requirements, amends rule to state that additional or different requirements may be imposed, when lawful, in individual matters.

**WAC 480-120-017** Severability, new section to provide that if one section of the chapter is held invalid, the remainder of the chapter remains valid.

**WAC 480-120-026** Tariffs, amended to include a cross-reference to chapter 480-80 WAC, Tariffs.

**WAC 480-120-028** Registration, new section to cross-reference to chapter 480-121 WAC, Registration, competi-

tive classification and price lists of telecommunications companies.

**WAC 480-120-029** Accounting requirements for competitively classified companies, new section to define accounting requirements for competitively classified companies.

**WAC 480-120-033** Reporting requirements for competitively classified companies, amended to define reporting requirements for competitively classified companies.

**WAC 480-120-036** Finance—Securities, affiliated interests, transfer of property, repealed, subject addressed in chapter 480-146 WAC.

**WAC 480-120-049** Access to premises, new section stating when and how industry may gain access to customer premises.

**WAC 480-120-076** Underground, repealed, no longer applicable in today's environment.

**WAC 480-120-091** Farmer lines, repealed, no longer applicable in today's environment.

**WAC 480-120-096** Grounded circuits, repealed, no longer applicable in today's environment.

**WAC 480-120-136** Retention and preservation of records and reports, amended to clarify language.

**WAC 480-120-530** Emergency services, amended to clarify language.

**WAC 480-120-531** Emergency operation, new section to define and clarify industry emergency requirements.

**Proposal Changes the Following Existing Rules:** See above.

**Administrative or General Rules in Chapter 480-120 WAC:** WAC 480-120-011, 480-120-015, 480-120-016, 480-120-017, 480-120-026, and 480-120-028, the objective of these rules is to make the chapter more informative for users. The rules contain information referred to in other sources such as, but not limited to: Statutes, commission policies, commission orders, and interpretive statements. These sources are not always easily available to the public. Adopting rules in this chapter makes the information readily available. Cross-references to the other sources makes it easier for users to research issues further should they wish to do so.

**Rules added or amended for reasons in addition to clarity:** WAC 480-120-029, 480-120-033, 480-120-049, 480-120-136, 480-120-530, and 480-120-531, rules were added or updated to include reporting requirements, information regarding administrative sanctions, and emergency procedures.

**Rules deleted that have no present application:** WAC 480-120-036, provided guidelines for a utility if planning to issue securities, create liens, or transfer property; WAC 480-120-076, provided guidelines covering underground facilities; WAC 480-120-091, switching service, maintenance of farmer lines and equipment; and WAC 480-120-096, described conditions for current or converted grounded telephone lines.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

**Attachment A**  
**SBEIS Questionnaire for All**  
**Telecommunications Companies**  
**Regulatory Review of Telecommunications**  
**Rules**  
**Docket UT-990146**

PROPOSED

**Background:** Chapter 480-120 WAC governs most telecommunications carrier operations, including both local exchange and interexchange companies. The proposed amendments would add requirements which could cause all telephone companies to incur more than inconsequential additional costs. Accordingly, the commission prepared this small business economic impact [statement].

**Summary of the Proposed Amendments:** The several rules proposed for adoption cover a variety of topics, including the applicability of the rules, accounting treatment of earnings, and the deletion of several technical requirements (e.g. grounded circuits rule).

**Purpose and Process:** RCW 19.85.040 requires that the economic impacts of proposed rules on small companies be compared with the economic impacts of proposed rules on the largest companies, or those which comprise the top 10% of the affected industry. RCW 19.85.020 defines small companies as those that have fifty or fewer employees.

On November 7, 2000, commission staff sent out a Small Business Economic Impact Statement Questionnaire (Attachment A) to all local and competitive telephone companies registered in the state.

Responses were requested by November 21, 2000, and received from thirteen telecommunications companies, three of which indicated they are small businesses (Attachment B).<sup>1</sup>

The small telephone companies provided little information from which the commission could determine that there would be significant costs for them to comply with the amended rules. All three indicated no cost or minimal cost.

**Cost of Compliance:** One small business indicated that it could cost \$500 to file a tariff or price list, but also indicated it has no customers in Washington. Another indicated it could cost \$140.00 to file a tariff or price list; another indicated the proposed rules would impose "no real costs."

One large business indicated it might cost \$100.00 to file a tariff or price list and all others indicated no costs or left the answer blank. One company indicated it could cost \$1000.00 dollars to notify customers if necessary.

The proposed rules do not add filing requirements. Consequently, the costs identified are not incremental costs resulting from adoption of the proposed rules.

**Comparison of Costs:** The cost of implementation of the proposed rules were indicated to be small or nonexistent for both small and large businesses. Nothing in the responses indicated a disproportionate impact on small businesses.

**Lost Sales or Revenue:** None of the proposed changes would result in loss of sales or revenue.

**Impact of Proposed Amendments:** These amendments received little comment and the responses to the SBEIS questionnaire indicates that all companies consider the impact will be negligible.

**Conclusion:** Thirteen companies out of over 500 registered companies responded to the SBEIS request. The impact that can be ascertained from the response is that the expected costs are negligible for all companies.

Company Name:

Company Contact:

Contact Telephone:

1. Does your company employ: Fewer than 51 people?  More than 50?
2. Would compliance with this rule cause a loss of sales?  Yes  No

Approximately how much? \$ \_\_\_\_\_

If "Yes," what type of sales would be lost and why would those be lost?

3. Would compliance with this rule cause a loss of revenue?  Yes  No

Approximately how much? \$ \_\_\_\_\_

If "yes," what type of revenue would be lost, and why would that revenue be lost?

4. Would sales increase? Yes  No

What type of sales would increase and approximately how much?

5. Would revenue increase? Yes  No

What type of revenue would increase and approximately how much?

6. Would expenses increase? Yes  No

What type of expenses would increase and approximately how much?

7. For the purposes of this rule, approximately how much would it cost your company to:

File a Tariff or Price List: \$ \_\_\_\_\_

Notify Customers \$ \_\_\_\_\_

Make Billing Changes \$ \_\_\_\_\_

Other (please specify) \$ \_\_\_\_\_

Thank you for your participation. If you have any questions, please contact Bob Shirley at (360) 664-1292. You may FAX your response to (360) 586-1150.

**PLEASE Return Questionnaire to the Commission not later than November 22, 2000.**

**Attachment B**

Responses to the Small Business Economic Impact Statement Questionnaire were received from the following telecommunications companies: Avista Communications; PaeTec Communications, Inc.; Alaska Fiber Star, LLC; Norstan Network Services, Inc.; Eagle Communications; Adelpia Business Solutions Operations, Inc.; MCI World-

Com, Inc.; OneStar Long Distance, Inc.; Qwest Corporation; Covad Communications Company; CenturyTel Long Distance, Inc.\*; IG2, Inc.\*; and Nations Bell, Inc. - d/b/a Nations Tel\*.

\*Companies indicating they are small businesses.

<sup>1</sup> One of the respondents that indicated it is a small business is a Washington-based affiliate of an incumbent local exchange company that operates in twenty or more states.

A copy of the statement may be obtained by writing to Carole Washburn, Secretary, Washington Utilities and Transportation Commission, 1300 South Evergreen Park Drive S.W., P.O. Box 47250, Olympia, WA 98504, phone (360) 664-1292, fax (360) 586-1150.

RCW 34.05.328 does not apply to this rule adoption. The commission is not an agency to which RCW 34.05.328 applies. This rule making is not a type that would be subject to the requirements of this statute.

Hearing Location: Commission Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, on March 14, 2001, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Pat Valentine by March 13, 2001, TDD (360) 586-8203, or (360) 664-1133.

Submit Written Comments to: Carole J. Washburn, Secretary, P.O. Box 47250, Olympia, WA 98504, or e-mail records@wutc.wa.gov, fax (360) 586-1150, by February 8, 2001. Please include Docket No. UT-990146 in your communication.

Date of Intended Adoption: March 14, 2001.

January 18, 2001

Carole J. Washburn  
Secretary

AMENDATORY SECTION (Amending Order R-242, filed 11/7/85)

**WAC 480-120-011 Application of rules.** ~~((These)) (1) The rules ((and regulations shall govern the furnishing of intrastate telecommunications service and facilities to the public by telecommunications companies)) in this chapter apply to any company that is subject to the jurisdiction of the commission((, such public service company hereinafter referred to as "utility." The purpose of these rules is to set forth reasonable service standards to the end that modern, adequate, efficient and sufficient telecommunications service will be rendered to the public)) under RCW 80.04.010 and chapter 80.36 RCW.~~

(2) The effective tariff provisions filed by ~~((utilities)) companies~~ shall conform to these rules. ~~((In event of)) The commission's acceptance of a tariff ((which is in conflict) that conflicts with these rules((, such acceptance will not be deemed)) does not constitute a waiver of these rules. Tariffs ((which are in) that conflict with these rules are ((hereby)) superseded by these rules unless the commission authorizes the deviation in writing.~~

~~((Cases of erroneous or doubtful interpretation of these rules by a utility or subscriber are subject to appeal to the commission by any interested and proper party affected.~~

~~Upon proper showing of any utility, the commission may waive or modify, as to that utility, the provisions of any rules herein, except when such provisions are fixed by statute.)) (3) Any affected person may ask the commission to review the interpretation of these rules by a utility or customer by posing an informal complaint under WAC 480-09-150, Informal complaints, or by filing a formal complaint under WAC 480-09-420, Pleading and briefs—Application for authority—Protests.~~

No deviation ~~((of)) from~~ these rules ~~((will be)) is~~ permitted without written authorization by the commission. Violation~~((s))~~ will be subject to ~~((the))~~ penalty provisions of chapter 80.04 RCW.

#### NEW SECTION

**WAC 480-120-015 Exemptions from rules.** (1) The commission may grant an exemption from the provisions of any rule in this chapter, if consistent with the public interest, the purposes underlying regulation and applicable statutes.

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

(3) The commission will assign the request a docket number, if it does not arise in an existing docket, and will schedule the request for consideration at one of its regularly scheduled open meetings or, if appropriate under chapter 34.05 RCW, in an adjudication. The commission will notify the person requesting the exemption, and other interested persons, of the date of the hearing or open meeting when the commission will consider the request.

(4) In determining whether to grant the request, the commission may consider whether application of the rule would impose undue hardship on the requesting person, of a degree or a kind different from hardships imposed on other similarly situated persons, and whether the effect of applying the rule would be contrary to the purposes of the rule.

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

AMENDATORY SECTION (Amending Order R-25, filed 5/5/71)

**WAC 480-120-016** ~~((Saving clause.))~~ **Additional requirements.** ~~((The adoption of these rules shall in no way preclude the commission from altering or amending the same, in whole or in part, or from requiring any other or additional service, equipment, facility or standards, not otherwise herein provided for, either upon complaint or upon its own motion, or upon the application of any party, and further, these rules shall in no way relieve any utility from any of its duties under the laws of the state of Washington.)) (1) These rules do not relieve any telecommunications company from any of its duties and obligations under the laws of the state of Washington.~~

(2) The commission retains the authority to impose additional or different requirements on any telecommunications company in appropriate circumstances, consistent with the requirements of law.

AMENDATORY SECTION (Amending Order R-25, filed 5/5/71)

WAC 480-120-026 Tariffs. ~~((Rate schedules, and rules and regulations governing services of a utility shall be published in accordance with chapter 480-80 WAC—Utilities general—Tariffs.)) Companies must file tariffs in accordance with chapter 480-80 WAC, Utilities general—Tariffs, price lists, and contracts.~~

#### NEW SECTION

WAC 480-120-028 Registration. Companies must file registration applications in accordance with chapter 480-121 WAC, Registration, competitive classification and price lists of telecommunications companies.

#### NEW SECTION

WAC 480-120-029 Accounting requirements for competitively classified companies. Competitively classified companies must keep accounts using generally accepted accounting principles (GAAP), or any other accounting method acceptable to the commission. In addition, the accounts must allow for identification of revenues for Washington intrastate operations subject to commission jurisdiction.

AMENDATORY SECTION (Amending Order R-251, filed 2/5/86)

WAC 480-120-032 ((~~Accounting—Political information and political education activities.~~) Expenditures for political or legislative activities. ~~((1) As used in this rule the term "political information and political education activities" includes, but is not limited to, newsletters, employee seminars, public meetings, advertising, employee or customer notices or mailings, or other forms of communication which (a) encourage support of or opposition to legislation, candidates for public office, or office holders; (b) solicit support for political action committees; (c) gather data for political mailing lists; or (d) solicit political contributions or recruit political volunteers.~~

~~(2) In addition to accounting for lobbying and other political expenses in accordance with the applicable system of accounts, every public service company incurring any direct or indirect expense associated with or in furtherance of any political information or political education activity, shall account for such costs separately in a nonoperating expense account. No such expense shall be permitted for ratemaking purposes.)) (1) The commission will not allow either direct or indirect expenditures for political or legislative activities for rate-making purposes.~~

(2) For purposes of this rule political or legislative activities include, but are not limited to:

(a) Encouraging support or opposition to ballot measures, legislation, candidates for a public office, or current public office holders;

(b) Soliciting support for or contributing to political action committees;

(c) Gathering data for mailing lists that are generated for the purposes of encouraging support for or opposition to ballot measures, legislation, candidates for public office, or current office holders, or encouraging support for or contributions to political action committees;

(d) Soliciting contributions or recruiting volunteers to assist in the activities set forth in (a) through (c) of this subsection.

(3) Political or legislative activities do not include activities directly related to appearances before regulatory or local governmental bodies necessary for the utility's operations.

AMENDATORY SECTION (Amending Order R-313, filed 12/15/89, effective 1/15/90)

WAC 480-120-033 ((~~Accounting and~~) Reporting requirements for ((~~competitive telecommunications~~) competitively classified companies. ~~((Competitive telecommunications companies shall, at a minimum, keep accounts according to generally accepted accounting principles and file annually, on a form prescribed by the commission, a certified consolidated financial statement which specifies revenues from intrastate operations. This annual report is due by May 1st of the succeeding year. Competitive telecommunications companies shall also make available, at the time and place the commission may designate, such accounting records as the commission may request. Such companies shall also keep on file at the commission current price lists and service standards.)) The commission will distribute an annual report form including a regulatory fee form. A competitively classified company must:~~

(1) Complete both forms, file them with the commission, and pay its regulatory fee, no later than May 1st of each year;

(2) Provide total number of access lines as required on the annual report form;

(3) Provide income statement and balance sheet for total company; and

(4) Provide revenues for Washington and Washington intrastate operations subject to commission jurisdiction.

#### NEW SECTION

WAC 480-120-049 Access to premises. Authorized personnel of a company have the right to enter a customer's property during reasonable hours to perform necessary functions such as maintenance, repair, testing, installation, or removal of the company's property. A company must provide photo identification to personnel who are authorized to enter customers' premises. Customers have the right to see the company-provided identification of company personnel before allowing entry to the customer's property.

PROPOSED

AMENDATORY SECTION (Amending Order R-343, filed 4/15/91, effective 5/16/91)

**WAC 480-120-136 Retention and preservation of records and reports.** ~~((1) "Volume X, Part 42, Preservation of Records of Communication Common Carriers" adopted and published by the FCC effective January 1, 1991, is hereby prescribed as the preservation of records requirements of telephone utilities in the state of Washington.~~

~~(2) All records and reports required by these rules shall be retained on file in the office of the utility or in such other place as may be approved by the commission, for such time as is specifically provided in paragraph (1) and where no time is specified, for a period of three years.~~

~~(3) No records shall be destroyed prior to the expiration of such time or period specified in paragraphs (1) and (2) above, except by prior written permission of this commission.)~~ **(1) Telecommunications companies must keep all records and reports required by these rules or commission order for three years unless otherwise specified in subsection (2) of this section. No records may be destroyed before the expiration of three years or the time specified in subsection (2) of this section, whichever is applicable.**

**(2) Telecommunications companies must adhere to the retention requirements of Title 47, Code of Federal Regulations, Part 42, Preservation of Records of Communication Common Carriers published by the Federal Communications Commission. The effective date is stated in WAC 480-120-999.**

AMENDATORY SECTION (Amending Order R-428, filed 4/6/95, effective 5/7/95)

**WAC 480-120-530 Emergency services.** (1) At least once every twenty-four hours, each local exchange company and each interexchange ~~((telecommunications))~~ company owning, operating, or maintaining any portion of any dedicated 911 circuit ~~((shall))~~ **must** manually test, for continuity ~~((such)),~~ the portion of the 911 circuit which it owns, operates, or maintains ~~((; provided, however, that the foregoing requirement shall)).~~ **This section does not apply to any dedicated 911 circuit, or portion thereof, ((with respect to which)) if either (a), (b), or (c) of this subsection ((, or any combination thereof,)) is satisfied:**

- (a) The circuit is carried by a transmission system (e.g., T-1 carrier) that is equipped with one or more alarms to detect loss of signal continuity; ~~((or))~~
- (b) The circuit is equipped with one or more alarms to detect loss of signal continuity; or
- (c) The circuit is automatically tested for signal continuity at least once every twenty-four hours.

**(2) Any dedicated 911 circuit found to be defective ((shall)) must be immediately reported to the primary public safety answering point (PSAP) manager, and repairs ((shall)) must be undertaken promptly and pursued diligently by the ((telecommunications)) company ((which)) that has responsibility for operating ((and/)) or maintaining the circuit, or both. ((Nothing in this section shall be construed to require any telecommunications company)) Companies are not required to ((test or)) repair any portion of any dedicated 911**

circuit ~~((which is)) that they do not ((owned, operated,)) own, operate, or ((otherwise maintained by it)) maintain.~~

~~((2) Each local exchange company shall develop and institute by April 1, 1993, a circuit identification and protection program for dedicated 911 circuits. The program shall be fully implemented by July 1994. This program shall))~~ **(3) Each company must ensure that all dedicated 911 circuits and associated electronic equipment serving governmental emergency response agencies are clearly identified ((as such)) in ((every)) the central office and the remote switch.**

NEW SECTION

**WAC 480-120-531 Emergency operation.** (1) All companies must maintain, revise, and provide to the commission the following:

- (a) The titles and telephone numbers of the company's disaster services coordinator and alternates; and
- (b) Upon request of the commission, the company's current plans for emergency operation, including current plans for recovery of service to governmental disaster recovery response agencies within the state of Washington.
- (2) For coordination of disaster response and recovery operations, each company must maintain on file with the Washington state emergency management division the titles and telephone numbers of the managers of the company's:
  - (a) Local network operations center;
  - (b) Regional network operations center; or
  - (c) Emergency operations center.

NEW SECTION

**WAC 480-120-545 Severability.** If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 480-120-036	Finance—Securities, affiliated interests, transfer of property.
WAC 480-120-076	Underground.
WAC 480-120-091	Farmer lines.
WAC 480-120-096	Grounded circuits.

**WSR 01-03-105  
PROPOSED RULES  
DEPARTMENT OF REVENUE**  
[Filed January 22, 2001, 10:49 a.m.]

Original Notice.

PROPOSED



Preproposal statement of inquiry was filed as WSR 00-21-088.

Title of Rule: WAC 458-20-22802 Electronic funds transfer.

Purpose: To explain the electronic funds transfer (EFT) process for remitting payment of tax liabilities reported on combined excise tax returns.

Statutory Authority for Adoption: RCW 82.32.300 and 82.32.085.

Statute Being Implemented: To the extent the following apply to electronic funds transfer, RCW 82.32.080 and 82.32.085.

Summary: RCW 82.32.080 requires that certain taxpayers remit payment of their combined excise tax return liability via "electronic funds transfer" (EFT). RCW 82.32.085 requires that the transfer be completed so that the state receives collectible funds on or before the next banking day following the tax return due date. The rule currently explains that an electronic funds transfer is due on or before 3:00 p.m., Pacific time, on the banking day following the tax return due date. The department is proposing to change this 3:00 p.m. deadline to 5:00 p.m.

Reasons Supporting Proposal: To simplify the EFT process for taxpayers. This proposal extends the time of day by which an EFT is due to conform to the close of a standard business day.

Name of Agency Personnel Responsible for Drafting: Pat Moses, 1025 East Union Avenue, Suite #400, Olympia, WA, (360) 902-7111; Implementation: Claire Hesselholt, 1025 East Union Avenue, Suite #400, Olympia, WA, (360) 570-6124; and Enforcement: Russell Brubaker, 1025 East Union Avenue, Suite #400, Olympia, WA, (360) 570-6131.

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: RCW 82.32.080 requires that certain taxpayers remit payment of their combined excise tax return liability via "electronic funds transfer" (EFT). This rule identifies those taxpayers that are required to remit payment via EFT, and explains that other taxpayers may voluntarily elect to remit payment via EFT. It explains the coordination of the filing of tax returns with payment by EFT and the form and content of an EFT. The rule also identifies commonly accepted means of electronic funds transfer.

RCW 82.32.085 requires that the transfer be completed so that the state receives collectible funds on or before the next banking day following the tax return due date. The rule currently explains that an EFT is due on or before 3:00 p.m., Pacific time, on the banking day following the tax return due date. The department is proposing to change this 3:00 p.m. deadline to 5:00 p.m.

Proposal Changes the Following Existing Rules: This is a proposal to revise an existing rule, WAC 458-20-22802 Electronic funds transfer. In addition to updating and minor editing changes, the department is proposing to change the current 3:00 p.m. deadline to 5:00 p.m. as explained above.

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

omic impact statement is not required because the rule and the proposed amendments to 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. The proposed rule is an interpretive rule as defined in RCW 34.05.328.

Hearing Location: Capitol Plaza Building, 4th Floor, Large Conference Room, 1025 East Union Avenue, Olympia, WA, on February 27, 2001, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Barb Vane no later than ten days before the hearing date, TDD 1-800-451-7985, or (360) 570-6182.

Submit Written Comments to: Pat Moses, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail patm@dor.wa.gov, by February 27, 2001.

Date of Intended Adoption: March 7, 2001.

January 22, 2001

Claire Hesselholt, Rules Manager  
Legislation and Policy Division

**AMENDATORY SECTION** (Amending WSR 91-24-070, filed 12/2/91, effective 1/2/92)

**WAC 458-20-22802 Electronic funds transfer. (1)**

**Introduction.** (~~Chapter 69, Laws of 1990, requires~~) Certain taxpayers are required to pay the taxes reported on the combined excise tax return with an electronic funds transfer (EFT). (~~This EFT requirement for taxpayers with large monthly payments begins with the monthly tax return due January 25, 1994.~~) RCW 82.32.080. Taxpayers who are not required to pay by EFT may still use this method of payment if they notify the department of their desire to pay by EFT in advance of making their first EFT payment. EFT merely changes the method of payment and no other tax return procedures or requirements are changed. Taxpayers who are either required or voluntarily choose to pay their excise tax returns by EFT must furnish the department with the necessary information, as described in subsection (9) of this rule.

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

(a) "~~(Electric)~~ Electronic funds transfer" or "EFT" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account.

(b) "ACH" or "automated clearing house" means a central distribution and settlement system for the electronic clearing of debits and credits between financial institutions.

(c) "ACH debit" means the electronic transfer of funds cleared through the ACH system that is generated by the taxpayer instructing the department's bank to charge the taxpayer's account and deposit the funds to the department's account.

(d) "ACH credit" means the electronic transfer of funds cleared through the ACH system that is generated by the tax-

payer instructing the taxpayer's bank to charge the taxpayer's account and deposit the funds to the department's account.

(e) "Department's bank" means the bank with which the department of revenue has a contract to assist in the receipt of taxes and includes any agents of the bank.

(f) "Collectible funds" actually means collected funds that have completed the electronic funds transfer process and are available for immediate use by the state.

(g) "ACH CCD + addenda" and "ACH CCD + record" mean the information in a required ACH format that needs to be transmitted to properly identify the payment.

(h) "Service access key" means a unique code that allows an ACH debit transaction to occur.

**(3) Taxpayers required to pay by EFT.**

~~((a)) For the calendar year 1991, taxpayers who have taxes due of \$1,800,000 or more are required to pay by EFT.~~

~~(b) For calendar years after 1991, taxpayers who have taxes due of \$240,000 or more are required to pay by EFT.~~

~~(e) In the interest of efficient tax administration, the department will notify those taxpayers required to pay by EFT at least three months prior to the start of their EFT payment requirement.~~

~~(d) The process of identifying taxpayers meeting the EFT threshold shall be based upon the taxes that were due in the last complete calendar year before the three month notification date. For example, taxpayers who will start paying by EFT in January, 1993 will be notified by the department by September 30, 1992. The base year for those taxpayers will be the calendar year 1991.~~

~~(e) Upon a showing by the taxpayer to the satisfaction of the department that it will not have taxes due in the payment year of more than the threshold amount, the department shall waive the requirement to pay by EFT.) Taxpayers who have taxes due of \$240,000 or more in a calendar year are required to pay by EFT. Total taxes due from the last complete calendar year will be used to determine whether a taxpayer is required to pay by EFT. When a calendar year total indicates a taxpayer is required to pay by EFT, the department will notify that taxpayer. The notification will be made at least three months prior to the date that the first EFT payment is required.~~

The requirement to pay by EFT will be waived if the taxpayer reasonably shows to the department that it will not meet or exceed the EFT threshold for taxes due in the calendar year.

(4) **Taxes covered.** The taxes covered by the EFT payment are taxes reported on the combined excise tax return. The included taxes are those administered by the department under chapter 82.32 RCW except city and town taxes on financial institutions (chapter 82.14A RCW), county tax on telephone access lines (chapter 82.14B RCW), cigarette tax (chapter 82.24 RCW), enhanced food fish tax (chapter 82.27 RCW), leasehold excise tax (chapter 82.29A RCW), and forest tax (chapter 84.33 RCW).

(5) **Refunds by EFT.** Overpayments of tax will be either credited to future tax liabilities or, at the taxpayer's request, will be refunded. If the taxpayer is required to pay the taxes on the combined excise tax return by EFT, the taxpayer is entitled to a refund of those taxes by EFT. However, ((the

~~taxpayer may agree in writing to waive this requirement.)) if the taxpayer wishes to have the refund made by EFT, the taxpayer ((shall)) must provide the department with the information necessary to make an appropriate EFT or the refund will be issued as a warrant (check).~~

~~(6) EFT methods. ((EFT shall be accomplished through the use of ACH debit or ACH credit.)) Taxpayers required to pay by EFT must do so through the use of the ACH debit or ACH credit methods. All other taxpayers paying via EFT must do so through the use of ACH debit, ACH credit or other electronic payment methods approved by the department. In an emergency, the taxpayer ((shall)) should contact the department for alternative methods of payment. ((The appropriate person to contact in the department)) Contact information will be included in the notification materials sent to all EFT remitters.~~

**(7) Due date of EFT payment.**

~~((a)) The EFT payment is due on or before the banking day following the tax return due date. An EFT is timely when the state receives collectible U.S. funds on or before ((3:00)) 5:00 p.m., Pacific Time, ((e)) on the EFT payment due date. The ACH system, either ACH debit or ACH credit, requires that the necessary information be in the originating bank's possession on the banking day preceding the date for completion of the transaction. Each bank generally has its own transaction deadlines and it is the responsibility of the taxpayer to insure timely payment.~~

~~((b)) (a) The tax return due date ((shall be)) is the next business day after the ((original)) statutory due date if the ((original)) statutory due date falls on a Saturday, Sunday, or legal holiday. Legal holidays are determined under state of Washington law and banking holidays are those recognized by the Federal Reserve System in the state of Washington.~~

~~((+)) (b) Example. The tax return due date is December 25th, a legal and banking holiday, which, for the example, falls on a Friday. The next business day ((would be)) is Monday, December 28th, and this is the new tax return due date. EFT must be completed by ((3:00)) 5:00 p.m., Pacific Time, Tuesday, December 29th, which is the next banking day after the new due date. For an ACH debit user, the department's bank must have the appropriate information by ((3:00)) 5:00 p.m., Pacific Time, on Monday, December 28th.~~

(8) **Coordinating return and payment.** The filed return and the EFT payment ((by EFT shall)) will be coordinated by the department. A return ((shall)) will be considered timely filed only if it is received by the department on or before the due date ~~(, or with a postmark on or before the due date)~~. If the return is sent by United States mail, it will be considered received on the date shown by the post office cancellation mark stamped on the envelope. RCW 82.32.080. In addition, the EFT payment ((by EFT)) must ((have been completed)) be received by the next banking day after the tax return due date. If both events occur, there is timely filing and payment and no penalties apply.

(9) **Form and contents of EFT.** The form and content of EFT will be as follows:

(a) If the taxpayer wishes to use the ACH debit system of EFT, the taxpayer will furnish the department with the information needed to complete the transaction. The department's

bank will provide (~~secrecy codes~~) a service access key only to the taxpayer and all transactions must be initiated by the taxpayer.

(b) If the taxpayer wishes to use the ACH credit system of the EFT, the taxpayer is responsible to see that its bank has the information necessary for timely completion. The taxpayer (~~shall~~) must provide the information necessary for its bank to complete the ACH CCD + addenda for transmittal to the department's bank.

(c) If the taxpayer wishes to use any other electronic payment method approved by the department, the taxpayer must provide the information necessary for the payment processing institution to timely process the payment.

~~(10) (Voluntary use of EFT. The use of EFT by taxpayers other than those required by statute to use EFT shall be by the written permission of the department.~~

~~(11))~~ **Crediting and proof of payment.** The department will credit the taxpayer with the amount paid as of the date the payment is received by the department's bank. The proof of payment by the taxpayer (~~shall~~) will depend on the means of transmission.

(a) An ACH debit transaction may be proved by use of the verification number received from the department's bank that the transaction was initiated and bank statements or other evidence from the bank that the transaction was settled.

(b) An ACH credit transaction is initiated by the taxpayer (~~and the taxpayer has responsibility for~~) through the taxpayer's bank. The taxpayer is responsible for completion of the transaction. The taxpayer generally will be given a verification number by the taxpayer's bank. This verification number with proof of the ACH CCD + record showing the department's bank and account number, plus (~~proof~~) confirmation that the transaction has been settled will constitute proof of payment.

~~((12))~~ (c) Taxpayers using any other electronic payment method are responsible for completion of the transaction. Proof of payment will include transaction initiation date and any other evidence from a financial institution that the transaction was settled.

~~(11)~~ **Correcting errors.** Errors in the EFT process will result in either an underpayment or an overpayment of the tax. In either case, the taxpayer needs to contact the department to arrange for appropriate action. Overpayments may be used as a credit or the taxpayer may apply for a refund. The department will expedite a refund where it is caused by an error in transmission. Underpayments should be corrected by the taxpayer immediately to (~~mitigate~~) avoid any penalties.

~~((13))~~ **(12) Penalties.**

~~((a))~~ There are no special provisions for penalties when payment is made by EFT. The general provisions for all taxpayers apply. To avoid the imposition of penalties, it is necessary for (~~both the filing of the tax return and~~) the payment to be timely. (~~Penalties may be waived only when the circumstances causing delinquency are beyond the control of the taxpayer. See:~~) WAC 458-20-228 discusses the various penalties that may apply and the limited circumstances under which they may be waived.

~~((b))~~ (a) In an ACH debit transaction, the department's bank is the originating bank and is responsible for the accu-

racy of transmission. If the taxpayer has timely initiated the ACH debit, received a verification number, and shows adequate funds were available in the account, no penalties (~~shall~~) will apply with respect to those funds authorized.

~~((c))~~ (b) In an ACH credit transaction, the taxpayer's bank is the originating bank and the taxpayer is primarily responsible for its accuracy. The taxpayer must have timely initiated the transaction, provided the correct information for the ACH CCD + record, and shown that there were sufficient funds in the account, in order to prove timely compliance. If the taxpayer can make this showing, then no penalties (~~shall~~) will apply as to those funds authorized if the transaction is not completed.

(c) With the use of other electronic payment methods, the taxpayer's financial institution is the originator of the payment transaction and the taxpayer is primarily responsible for the accuracy of this transaction. The taxpayer must have timely initiated the transaction and shown that there were sufficient funds in the account in order to prove timely compliance. If the taxpayer can make this showing, then no penalties will apply as to those funds authorized if the transaction is not completed.

**WSR 01-03-107  
PROPOSED RULES  
DEPARTMENT OF  
FINANCIAL INSTITUTIONS**

[Filed January 22, 2001, 11:06 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-24-034.

Title of Rule: Rules addressing collective investment funds and their administration.

Purpose: To correct outdated WAC numbers referred to in Title 208 WAC. No new rules are being proposed.

Statutory Authority for Adoption: RCW 43.329.040 and 30.04.030.

Statute Being Implemented: RCW 30.04.030.

Summary: Amendments to WAC 208-512-045 Schedule of fees for banks, trust companies, stock savings banks, mutual savings banks, and alien banks, 208-512-110 Investment securities—Permissible investments, 208-512-115 Investment securities—Proper management, 208-512-116 Investment securities—Investment in investment companies, 208-512-117 Investments in corporations, 208-512-240 General limitations, 208-512-280 Loans to partnerships, joint ventures, and associations, 208-512-300 Transitional rules, 208-514-140 Construction, 208-528-040 Fees, 208-532-050 Fees, 208-544-025 Fees paid by interstate banks, 208-544-037 Charges and fees effective June 25, 1999, 208-544-039 Charges and fees effective July 1, 1999, 208-556-080 Fees, 208-586-135 Charges and fees effective June 25, 1999, and 208-586-140 Charges and fees effective July 1, 1999. No substantive changes have been requested.

Reasons Supporting Proposal: Titles 50 and 419 WAC were recodified as chapters of Title 208 WAC, effective September 22, 2000, and October 6, 2000. A review of Title 208

WAC revealed that certain references to Titles 50 and 419 WAC had not been updated to reflect the recodification of those titles into Title 208 WAC.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Division of Banks, 300 General Administration Building, Olympia, (360) 902-8704.

Name of Proponent: Department of Financial Institutions, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Titles 50 and 419 WAC were recodified as chapters of Title 208 WAC, effective September 22, 2000, and October 6, 2000. A review of Title 208 WAC revealed that certain references to Titles 50 and 419 WAC had not been updated to reflect the recodification of those titles into Title 208 WAC. No substantive changes have been requested, and we believe the proposed amendments are consistent with Title 208 WAC and chapter 43.320 RCW.

Proposal does not change existing rules. No substantive changes have been requested.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The purpose of these amendments is to correct outdated WAC numbers referred to in the banking rules under Title 208 WAC.

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 does not apply to these proposals. The Department of Financial Institutions is requesting the amendments to update outdated WAC numbers referenced in Title 208 WAC. The amendments do not change the effect of the rule.

Hearing Location: 210 11th Avenue S.W., Suite 300, Olympia, WA 98504, on February 27, 2001, at 9:30 a.m. to 10:30 a.m.

Assistance for Persons with Disabilities: Contact Patty Brombacher by 5:00 p.m. on February 19, 2001, TDD (360) 664-8126, or (360) 902-8748.

Submit Written Comments to: Mike Abe, Program Manager, P.O. Box 41200, Olympia, WA 98504, fax (360) 753-6070, by February 26, 2001.

Date of Intended Adoption: February 27, 2001.

January 16, 2001

John L. Bley

Director

**AMENDATORY SECTION** (Amending WSR 00-17-140, filed 8/22/00, effective 9/22/00)

**WAC 208-586-135 Charges and fees effective June 25, 1999.** Effective June 25, 1999, the rate of charges and fees under chapter ((419-14 and 419-56)) 208-586 and 208-594 WAC shall be as follows:

- (1) WAC ((419-14-030(1))) 208-586-030(1) - The fee shall be \$41.67 per hour.
- (2) WAC ((419-14-030(2))) 208-586-030(2) - The fee shall be \$46.88 per hour.
- (3) WAC ((419-14-030(3))) 208-586-030(3) - The fee shall be \$52.09 per hour.

(4) WAC ((419-14-040)) 208-586-040 - The asset charge shall be .031254 per thousand dollars of assets.

(5) WAC ((419-14-075)) 208-586-075 - The fee shall be \$2,500.00 for the first branch and \$500.00 for each additional branch.

(6) WAC ((419-14-080)) 208-586-080 - The fee shall be \$50.00 for the home office and each branch.

(7) WAC ((419-14-090)) 208-586-090 - The fee shall be \$62.50 per hour.

(8) WAC ((419-14-100)) 208-586-100 - The fee shall be \$52.09 per hour.

(9) WAC ((419-14-110)) 208-586-110 - The fee shall be \$52.09 per hour.

(10) WAC ((419-14-110)) 208-586-120 - The fee shall be \$5,000.00.

(11) WAC ((419-56-070)) 208-594-070 - The fee shall be \$1,000.00.

**AMENDATORY SECTION** (Amending WSR 00-17-140, filed 8/22/00, effective 9/22/00)

**WAC 208-586-140 Charges and fees effective July 1, 1999.** (1) Effective July 1, 1999, the rate of charges and fees under chapters ((419-14 and 419-56)) 208-586 and 208-594 WAC shall be as follows:

(a) WAC ((419-14-030(1))) 208-586-030(1) - The fee shall be \$43.05 per hour.

(b) WAC ((419-14-030(2))) 208-586-030(2) - The fee shall be \$48.43 per hour.

(c) WAC ((419-14-030(3))) 208-586-030(3) - The fee shall be \$53.81 per hour.

(d) WAC ((419-14-040)) 208-586-040 - The asset charge shall be .0322916 per thousand dollars of assets.

(e) WAC ((419-14-075)) 208-586-075 - The fee shall be \$2,500.00 for the first branch and \$500.00 for each additional branch.

(f) WAC ((419-14-080)) 208-586-080 - The fee shall be \$50.00 for the home office and each branch.

(g) WAC ((419-14-090)) 208-586-090 - The fee shall be \$64.57 per hour.

(h) WAC ((419-14-100)) 208-586-100 - The fee shall be \$53.81 per hour.

(i) WAC ((419-14-110)) 208-586-110 - The fee shall be \$53.81 per hour.

(j) WAC ((419-14-110)) 208-586-120 - The fee shall be \$5,000.00.

(k) WAC ((419-56-070)) 208-594-070 - The fee shall be \$1,000.00.

(2) Thereafter, effective July 1, 2000, and again on July 1, 2001, the charges and fees set forth in subsection (1)(a), (b), (c), (d), (g), (h), and (i) of this section shall be increased by the fiscal growth factor as determined by the office of financial management pursuant to RCW 43.135.025.

(3) The director may suspend the collection of any or all of the charges and/or fees imposed under this section when he or she determines the banking examination fund established in RCW 43.320.110 exceeds the projected acceptable minimum fund balance level approved by the office of financial management and that such course of action would be fiscally prudent.

**AMENDATORY SECTION** (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

**WAC 208-556-080 Fees.** The cost of regulation of non-depository lenders licensed under Title 31 RCW, shall be borne by the licensees under the following schedule:

(1) Application fee. A fee of two thousand dollars must accompany an application for this license to cover the cost of investigation.

(2) Acquisition of control approval fee. A fee of two thousand dollars must accompany any request for acquisition of control of a licensee to cover the cost of investigation which will be conducted to the same degree as an initial application approval.

(3) Business combination fee. Other business combinations must be approved by the director. Costs of investigation will be borne by the licensee and will be based on actual staff costs of the division of banks, which are fifty dollars per hour per examiner assigned.

(4) Examination and supervision fees. Examination and supervision fees shall be billed based on rates charged commercial banks for examination costs and semiannual asset charges in chapter ~~((50-44))~~ 208-544 WAC.

**AMENDATORY SECTION** (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

**WAC 208-512-045 Schedule of fees for banks, trust companies, stock savings banks, mutual savings banks, and alien banks.** (1) The director shall collect the following fees:

(a) Hourly charges for services plus actual expenses for review of application and attendant investigation for:

- (i) New bank or trust company;
- (ii) Conversion to a state chartered institution;
- (iii) Alien bank to establish and operate an office or bureau in the state;

(iv) Certificate conferring trust powers;

(v) Branch;

(vi) ~~((A satellite facility or facilities which are to be used by its own customers or customers of another bank;~~

~~((vii) A network system of satellite facilities as defined in WAC 50-40-010(4) or modification of a previously approved network system made in accordance with WAC 50-40-060 (1) or (2);~~

~~((viii))~~ Merger, consolidation, or reorganizational agreement;

~~((ix))~~ (vii) Relocation of main office or branch;

~~((x))~~ (viii) An out-of-state bank holding company acquisition and control of more than five percent of the shares of voting stock or substantially all of the assets of a bank, trust company, national banking association or bank holding company, the principal operations of which are conducted within this state;

~~((xi))~~ (ix) The purchase or sale of a branch;

~~((xii))~~ (x) Voluntary or involuntary liquidation of a bank or trust company pursuant to chapter 30.44 RCW or for acting as conservator of a bank or trust company pursuant to chapter 30.46 RCW;

~~((xiii))~~ (xi) Conversion from a mutual savings bank to a stock savings bank;

~~((xiv))~~ (xii) Notice of change of control.

(b) Hourly charges for opinions rendered regarding interpretations of statutes and rules.

(c) \$100.00 for issuing the following certificates:

(i) Branch certificate;

(ii) Increase or decrease of capital stock certificate;

(iii) Certificate of authority;

(iv) ~~((Satellite facility;~~

~~((v))~~ Certificate of good standing;

~~((vi))~~ (v) Other.

(d) \$100.00 for filing articles of incorporation, or amendments thereof, or other certificates required to be filed with the director.

(e) Fifty cents per page for furnishing copies of papers filed with the director.

(2) The hourly fee for services shall be \$90.00 per employee hour expended. The director may require a lump sum payment in advance to cover the anticipated cost of review and investigation of the activities described in subsection (1)(a) and (b) of this section. In no event shall the lump sum payment required under this section exceed actual amounts derived in subsection (1)(a) and (b) of this section.

**AMENDATORY SECTION** (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

**WAC 208-512-110 Investment securities—Permissible investments.** A bank or trust company may purchase or hold obligations of a single obligor which are "investment securities," as defined below, and meet the following guidelines for proper "investment security" management. The term "investment security" shall mean a marketable obligation evidencing indebtedness of any person, copartnership, association, or corporation; of the government of the United States or any agency thereof; of any state, or political subdivision thereof; or of any publicly-owned entity that is an instrumentality of a state or municipal corporation in the form of bonds, notes, and/or debentures. They exclude investments which are predominately speculative but shall include:

(1) Type I securities which a bank may deal in, purchase, and sell for its own account without limitation. These securities include:

(a) Obligations of the United States;

(b) Obligations issued, insured, or guaranteed by a department or agency of the United States, including obligations of such departments or agencies representing an interest in a loan or pool of loans;

(c) General obligations of a state or political subdivision including but not limited to obligations of a county, city, town, municipal corporation, or any publicly-owned entity that is an instrumentality of a state or municipal corporation;

(d) Obligations of any state or political subdivision of a state if a state or political subdivision of a state having general powers of taxation has unconditionally promised to make sufficient funds available for full repayment of the obligation; and

(e) Revenue bonds issued by public improvement agencies.

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(2) Type II securities which a bank may deal in, purchase and sell for its own account subject to a twenty percent of capital and surplus limitation and any limitation set forth in WAC 50-12-115 (2)(c). These include obligations issued by any state or political subdivision, or any agency of a state or political subdivision for housing, university or dormitory purposes. Such obligations include:

(a) Obligations issued by any state or a political subdivision for the purpose of financing the construction or improvement of facilities at or used by a university or a degree-granting college-level institution, or financing loans for studies at such institutions; and

(b) Obligations which finance the construction or improvement of facilities used by a hospital, provided that the hospital is a department or a division of a university, or otherwise provides a sufficient nexus with university purposes.

(3) Type III securities which a bank may purchase and sell for its own account with a twenty percent of capital and surplus limitation and any limitation set forth in WAC (~~50-12-115 (2)(e))~~ 208-512-115 (2)(c), but may not deal in. These include investment securities issued by corporations, provided that such securities have received in the most recent edition one of the four highest rating grades by Standard and Poor's, Moodys, or equivalent rating service. Unrated securities must be investment grade and be of equivalent quality to the four highest rating grades and where the investment characteristics are distinctly or predominately not speculative.

**AMENDATORY SECTION** (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

**WAC 208-512-115 Investment securities—Proper management.** (1) A bank may purchase a Type I security for its own account, provided it is permissible under the provisions of Title 30 RCW and this regulation, if through prudent banking judgment it determines there is adequate evidence that the obligor will be able to perform all necessary undertakings in connection with the security, including all debt service requirements.

(2)(a) A bank may purchase a Type II or III security for its own account when through prudent banking judgment (which may be based in part upon estimates which it believes to be reliable), it determines that there is adequate evidence that the obligor will be able to perform all that it undertakes to perform in connection with the security, including all debt service requirements, and that the security is marketable so that it can be sold with relative promptness at a fair market value.

(b) A bank may, subject to the limitations set forth in (c) of this subsection, purchase a security of Type II or III for its own account although its judgment with respect to the obligor's ability to perform is based predominantly upon estimates it believes to be reliable. This subsection permits a bank to exercise a somewhat broader range of judgment with respect to a more restricted portion of its investment portfolio.

(c) If a bank holds at any time Type II or III securities which would not be eligible for purchase pursuant to (a) of this subsection in a total amount in excess of five percent of

the bank's capital and surplus, they are to be charged down to market value or a specific reserve is to be established within ninety days.

(3) Each bank shall maintain in its files credit information adequate to demonstrate that it has exercised prudence in making the determinations and carrying out the transactions involving underwriting, dealing in, and purchase and sale of investment securities. This information shall be retained:

(a) When securities are purchased for the bank's own portfolio, as long as the security remains in the portfolio;

(b) When securities are underwritten by the bank, for the maturity or the life of the security; and

(c) With regard to dealer activities, for periods set forth in the relevant rules of the municipal securities rule-making board.

(4) When a bank purchases an investment security convertible into stock or with stock purchase warrants attached, entries must be made by the bank at the time of purchase to write down the cost of such security to an amount which represents the investment value of the security considered independently of the conversion feature or attached stock purchase warrants. Purchase of securities convertible into stock at the option of the issuer is prohibited.

(5) When an investment security is purchased at a price exceeding par or face value, the bank shall:

(a) Charge off the entire premium at the time of purchase; or

(b) Provide for a program to amortize the premium paid or that portion of premium remaining after the write-down subject to subsection (2) of this section so that such premium or portion thereof shall be entirely extinguished at or before the maturity of the security.

(6) Each bank shall take measures to insure the cumulative investment holdings do not exceed the limitations for a specific investment set forth in Title 30 RCW.

(7) The board of directors, a committee thereof, or a duly appointed committee of senior level management shall review at least quarterly the bank's investment portfolio to insure compliance with the provisions contained in WAC (~~(50-12-110)~~ 208-512-110 through (~~(50-12-116)~~ 208-512-116).

(8) The restrictions and limitations set forth in this section do not apply to securities acquired through foreclosure on collateral, or acquired in good faith by way of compromise of a doubtful claim or to avoid a loss in connection with a debt previously contracted.

**AMENDATORY SECTION** (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

**WAC 208-512-116 Investment securities—Investment in investment companies.** A bank or trust company may invest in shares of an investment company provided that all of the following conditions are met:

(1) The investment company must be registered with Securities and Exchange Commission under the Investment Company Act of 1940 and the Securities Act of 1933 or be a privately offered fund sponsored by an affiliated commercial bank.

(2) The shareholder has a fair and equal proportionate undivided interest in the underlying assets of the investment company calculated pursuant to the Investment Company Act of 1940.

(3) When an investment company's assets consist solely of and are expressly limited to obligations that are eligible for unlimited investment (Type I) as described in WAC ((~~50-12-400~~)) 208-512-100, there is no limit on the bank's investment. However, where the investment companies portfolio contains, or is permitted to contain, securities subject to the bank's investment or lending limitations, investment by the bank shall be subject to a twenty percent of capital and surplus limitation.

(4) The shareholders are protected against personal liability for acts or obligations of the investment company.

(5) The bank's investment policy, as formally approved by its board of directors, specifically provides for such investments; prior approval of the board of directors is obtained for initial investments in specific investment companies and recorded in the official board minutes; and procedures, standards, and controls for managing such investments are implemented prior to acquirement of these investments.

(6) If the investment company makes use of futures, forwards, options, repurchase agreements and securities lending arrangements, their use must be consistent with standards adopted for use of such instruments in the bank's portfolio.

(7) Regulatory reporting of holdings in investment companies is consistent with established standards for "marketable equity securities."

**AMENDATORY SECTION** (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

**WAC 208-512-117 Investments in corporations.** Nothing in WAC 208-512-110, 208-512-115, or 208-512-116 shall limit the authority of a bank or trust company to invest in corporations or entities, with the prior authorization of the director, pursuant to RCW ((~~30.04.\_\_\_\_~~)) 30.04.127, (section 1, chapter 498, Laws of 1987).

**AMENDATORY SECTION** (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

**WAC 208-512-240 General limitations.** The total loans and extensions of credit by a state bank or trust company to a person outstanding at one time and not fully secured by collateral in a manner defined in WAC ((~~50-12-250~~)) 208-512-250 shall not exceed twenty percent of the capital and surplus of the bank or trust company.

**AMENDATORY SECTION** (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

**WAC 208-512-280 Loans to partnerships, joint ventures, and associations.** (1) Loans or extensions of credit to a partnership, joint venture, or association shall, for purposes of WAC ((~~50-12-210~~)) 208-512-210 through ((~~50-12-300~~)) 208-512-300, be considered loans or extensions of credit to each member of such partnership, joint venture, or association.

(2) Loans or extensions of credit to members of a partnership, joint venture, or association are considered loans or extensions of credit to the partnership, joint venture, or association if one or more of the tests presented in WAC ((~~50-12-260(1)~~)) 208-512-260(1) is satisfied with respect to one or more of the members. However, loans to members of a partnership, joint venture or association will not be attributed to other members of the partnership, joint venture, or association unless one or more of the tests set forth in WAC ((~~50-12-260(1)~~)) 208-512-260(1) is satisfied with respect to such other members. The tests set forth in WAC ((~~50-12-260(1)~~)) 208-512-260(1) shall be deemed satisfied when loans or extensions of credit are made to members of a partnership, joint venture, or association for the purpose of purchasing an interest in such partnership, joint venture, or association.

(3) The rule set forth in subsection (1) of this section is not applicable to limited partners in limited partnerships or to members of joint ventures if such partners or members, by the terms of the partnership or membership agreement are not to be held liable for the debts or actions of the partnerships, joint venture, or association. However, the rules set forth in WAC ((~~50-12-260(1)~~)) 280-512-260(1) are applicable to such partners or members.

**AMENDATORY SECTION** (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

**WAC 208-512-300 Transitional rules.** (1) Loans or extensions of credit which were in violation of RCW 30.04.111 prior to the relevant effective dates of WAC ((~~50-12-210~~)) 208-512-210 through this section will be considered to remain in violation of law until they are paid in full, regardless of whether the loans or extensions of credit conform to the rules established in WAC ((~~50-12-210~~)) 208-512-210 through this section. Renewals or extensions of such loans or extensions of credit will also be considered violations of law.

(2) A state bank which has outstanding loans or extensions of credit to a person in violation of RCW 30.04.111 as of the relevant effective dates of WAC ((~~50-12-210~~)) 208-512-210 through this section may make additional advances to such person after those dates if the additional advances are permitted under WAC ((~~50-12-210~~)) 208-512-210 through this section. The additional advances, however, may not be used directly or indirectly to repay any outstanding illegal loans or extensions of credit.

(3) Loans or extensions of credit which were in conformance with RCW 30.04.111 prior to the relevant effective dates of WAC ((~~50-12-210~~)) 208-512-210 through this section but are not in conformance with the rules established in WAC ((~~50-12-210~~)) 208-512-210 through this section will not be considered to be violations of law during the existing contract terms of such loans or extensions of credit. Renewals or extensions of such loans or extensions of credit which are not in conformance with WAC ((~~50-12-210~~)) 208-512-210 through this section may be made on or after the effective dates of WAC ((~~50-12-210~~)) 208-512-210 through this section, if the nonconformity is caused by the amendments to Title 30 RCW contained in ESSB 4917; however, all loans or extensions of credit made under such renewals or extensions

must conform with WAC ((~~50-12-210~~)) 208-512-210 through this section no later than April 1, 1988. Loans or extensions of credit which are not in conformance with WAC ((~~50-12-210~~)) 208-512-210 through this section for any other reason (i.e., a reduction in the bank's capital) must conform to this section upon renewal or extension.

(4) If a state bank, prior to the relevant effective dates of WAC ((~~50-12-210~~)) 208-512-210 through this section, entered into a legally binding commitment to advance funds on or after those dates, and such commitment was in conformance with RCW 30.04.111, advances under such commitment may be made notwithstanding the fact that such advances are not in conformance with WAC ((~~50-12-210~~)) 208-512-210 through this section. The bank must, however, demonstrate that the commitment represents a legal obligation to fund, either by a written agreement or through file documentation. Advances under renewals or extensions of such extension of the commitment is made on or after the relevant effective dates of WAC ((~~50-12-210~~)) 208-512-210 through this section.

**AMENDATORY SECTION** (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

**WAC 208-514-140 Construction.** Nothing contained in chapter ((~~50-14~~)) 208-514 WAC shall be construed to prohibit the de novo chartering of a stock savings bank not intended to be in holding company form.

**AMENDATORY SECTION** (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

**WAC 208-528-040 Fees.** The filing fee to accompany the notice of intention to organize a bank or trust company shall be that established by WAC ((~~50-12-040~~)) 208-512-045, as now or hereafter amended. If the application is withdrawn by applicants before a field investigation is undertaken a refund will be made based upon retention of that portion deemed adequate to cover processing and preliminary investigation costs. The retained portion shall be the greater of:

- (1) \$500.00, or
- (2) Estimated number of hours times the current hourly rate as established by WAC ((~~50-12-040~~)) 208-512-045 as devoted to processing and preliminary review and investigation.

**AMENDATORY SECTION** (Amending WSR 00-18-103, filed 9/6/00, effective 10/7/00)

**WAC 208-532-050 Fees.** (1) The fees to accompany the filing of an application and attendant investigation are prescribed in WAC ((~~50-12-040~~)) 208-512-045, as now or hereafter amended.

(2) Cost of examination. The examination fees charged to an alien bank for the examination of an office or bureau shall be the estimated actual cost of each examination calculated under the same terms and conditions as for state chartered banks and trust companies.

**AMENDATORY SECTION** (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

**WAC 208-544-025 Fees paid by interstate banks. (1) Semiannual asset charge.** The semiannual asset charge established in WAC ((~~50-44-020~~)) 208-544-020 shall be assessed against any state-chartered bank, as defined in 12 U.S.C. sec. 1813(a), that operates branches in Washington and any other state. The assets subject to assessment under WAC ((~~50-44-020(1)~~)) 208-544-020(1) shall be determined as follows: Divide the number of branches in Washington by the total number of branches in all states including Washington and multiply the result by the asset value reflected in the most recent report of condition.

(2) **Other fees.** All other fees that normally apply to Washington-chartered banks under WAC ((~~50-44-030 and 50-12-045~~)) 208-544-030 and 208-512-045 shall also be paid by banks chartered in other states.

**AMENDATORY SECTION** (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

**WAC 208-544-037 Charges and fees effective June 25, 1999.** Effective June 25, 1999, the rate of charges and fees under WAC ((~~50-12-045, 50-44-020 and 50-44-030~~)) 208-512-045, 208-544-020 and 208-544-030 shall be as follows:

(1) WAC ((~~50-12-045 (1)(e) and (d)~~)) 208-512-045 (1)(c) and (d) - The fee shall be \$100.00 for the issuance and filing of certificates.

(2) WAC ((~~50-12-045 (1)(e)~~)) 208-512-045 (1)(e) - The fee shall be 50 cents per page.

(3) WAC ((~~50-12-045(2)~~)) 208-512-045(2) - The fee shall be \$93.76 per employee hour expended.

(4) WAC ((~~50-44-020(1)~~)) 208-544-020(1) - The rates shall be the following:

If total assets are:			The assessment is:	
Over	But not Over	This Amount	Plus	Of Excess Over
Million	Million			Million
0	500	0	.000014668	0
500	1,000	7,344	.000014064	500
1,000	10,000	14,366	.000013855	1,000
10,000	—	139,061	.000	10,000

(5) WAC ((~~50-44-020(2)~~)) 208-544-020(2) - The rate shall be .000036659.

(6) WAC ((~~50-44-030(1)~~)) 208-544-030(1) - The fee shall be \$67.71 per hour.

(7) WAC ((~~50-44-030(2)~~)) 208-544-030(2) - The fee shall be \$93.76 per hour.

**AMENDATORY SECTION** (Amending WSR 00-17-141, filed 8/22/00, effective 9/22/00)

**WAC 208-544-039 Charges and fees effective July 1, 1999.** (1) Effective July 1, 1999, the rate of charges and fees under WAC ((~~50-12-045, 50-44-020 and 50-44-030~~)) 208-512-045, 208-544-020 and 208-544-030 shall be as follows:

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(a) WAC ((~~50-12-045(1)(e)~~ and (~~4~~))) 208-512-045(1)(c) and (d) - The fee shall be \$100.00 for the issuance and filing of certificates.

(b) WAC ((~~50-12-045(1)(e)~~)) 208-512-045(1)(e) - The fee shall be 50 cents per page.

(c) WAC ((~~50-12-045(2)~~)) 208-512-045(2) - The fee shall be \$96.87 per employee hour expended.

(d) WAC ((~~50-44-020(1)~~)) 208-544-020(1) - The rates shall be the following:

If total assets are:		The assessment is:		
Over	But not Over	This Amount	Plus	Of Excess Over
Million	Million			Million
0	500	0	.0000151549	0
500	1,000	7,577	.0000145309	500
1,000	10,000	14,842	.0000143149	1,000
10,000	—	143,676	.000	10,000

(e) WAC ((~~50-44-020(2)~~)) 208-544-020(2) - The rate shall be .000037876.

(f) WAC ((~~50-44-030(1)~~)) 208-544-030(1) - The fee shall be \$69.95 per hour.

(g) WAC ((~~50-44-030(2)~~)) 208-544-030(2) - The fee shall be \$96.87 per hour.

(2) Thereafter, effective July 1, 2000, and again on July 1, 2001, the charges and fees set forth in subsection (1)(c), (d), (e), (f), and (g) of this section shall be increased by the fiscal growth factor as determined by the office of financial management pursuant to RCW 43.135.025.

(3) The director may suspend the collection of any or all of the charges and/or fees imposed under this section when he or she determines the banking examination fund established in RCW 43.320.110 exceeds the projected acceptable minimum fund balance level approved by the office of financial management and that such course of action would be fiscally prudent.

**WSR 01-03-116**  
**PROPOSED RULES**  
**PENINSULA COLLEGE**  
 [Filed January 22, 2001, 1:14 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 00-24-045.

Title of Rule: Title 132A WAC, Community College—Peninsula College.

Purpose: Updating Title 132A WAC.

Statutory Authority for Adoption: RCW 28B.50.140 and chapter 28B.50 RCW.

Statute Being Implemented: RCW 28B.50.140.

Summary: Updating Title 132A WAC.

Reasons Supporting Proposal: To correspond with current policies, practices, and procedures.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bonnie Cauffman, Peninsula College, Port Angeles, (360) 417-6212.

Name of Proponent: Community College District No. 1 - Peninsula College, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Peninsula College's WACs need revision to correspond with current policies, practices, and procedures.

Proposal Changes the Following Existing Rules: Peninsula College's WACs need revision to correspond with current policies, practices and procedures.

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

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Peninsula College Campus, 1502 East Lauridsen Boulevard, Port Angeles, WA 98362, on February 28, 2001, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Bonnie Cauffman by February 9, 2001, TDD (360) 417-6339, or (360) 417-6212.

Submit Written Comments to: Bonnie Cauffman, fax (360) 417-6220, by February 21, 2001.

Date of Intended Adoption: April 1, 2001.

January 18, 2001

Bonnie Cauffman

Director

**AMENDATORY SECTION** (Amending WSR 99-15-072, filed 7/20/99, effective 8/20/99)

**WAC 132A-120-011 Student responsibilities.** Any student shall be subject to disciplinary action as provided in this chapter who, either interferes with((;)) or assists others in interfering with((;)) the personal rights or privileges of others or the educational purpose of the college; violates any provision of this policy; or who commits any of the personal, property, or other offenses which are hereafter enumerated.

(1) Personal offenses.

(a) Assault, reckless endangerment, intimidation or interference with another in the pursuit of educational goals.

(b) Disorderly or abusive behavior, refusal to follow instructions, or other conduct which interferes with the rights of others or which obstructs or disrupts the teaching, research, or administrative functions of the college.

(c) Illegal assembly, obstruction, disruption, or material and substantial interference with the conduct of classes, hearings, meetings, educational and administrative functions of the college; the private rights and privileges of others, or vehicular pedestrian traffic.

(d) Sexual harassment, engaging in unwelcome sexual advances, requesting sexual favors, or engaging in physical or verbal conduct of a sexual nature which offends the recipient, causes discomfort or humiliation, or interferes with job or academic performance.

(e) Filing a false complaint, accusing another student or a college employee of violating a provision of this policy.

(f) Creating a false alarm by setting off or tampering with any emergency safety equipment, alarm, or other device provided for the safety of individuals or college facilities.

(2) Property offenses.

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- (a) Theft of college property.
- (b) Malicious mischief in causing either intentional or negligent damage to or destruction of any college facility or other public or personal property.

(c) Trespass: Either declining a legal order to vacate a college property or violating a legal prohibition of access to college facilities.

(d) Unauthorized use of college equipment and supplies or conversion of college equipment for personal gain. This includes intentionally and without authorization gaining access to a computer system or electronic data of another student, a faculty member, or the district, in violation of RCW 9A.52.130.

(3) Other offenses.

(a) Cheating and plagiarism, submitting to a faculty member any work which is untruthfully represented as the student's own work for the purpose of meeting the requirements of any assignment or task required by the faculty member as a part of the student's program of instruction.

(b) Forgery or the alteration of official records, whereby a student either forges or offers a forged document as authentic to any agent acting on behalf of Peninsula College.

(c) Refusal to provide identification in appropriate circumstances to any college employee acting in the lawful discharge of the employee's duties.

(d) Illegal entry into any administrative or employee office or otherwise locked or closed college facility, at any time, without permission of the employee or an appropriate agent of the college.

(e) The use, possession, or sale of any controlled substances (as defined in chapter 69.50 RCW, now or hereafter amended) on college owned or leased property except when the use or possession of a drug is prescribed as medication by an authorized medical professional.

(f) The use, possession, or sale of any form of alcoholic beverage, or being demonstrably under the influence of alcohol on college owned or leased property. (~~Excepted are sanctioned events, approved by the president or his or her designee and in compliance with state law.~~)

(g) The possession on college property of weapons, explosives, or dangerous chemicals, or the unauthorized use or possession of any device or substance which can be used to inflict bodily harm or cause damage to real or personal property.

(h) Smoking in any nonresidential building or in any campus location not designated for smoking.

AMENDATORY SECTION (Amending WSR 99-15-072, filed 7/20/99, effective 8/20/99)

**WAC 132A-120-021 Delegation of disciplinary authority.** The ~~((director of student activities))~~ vice-president of student services or designee shall have the authority to administer the disciplinary action prescribed in this chapter. The president shall be informed of all student dismissals, suspensions or probation proceedings by the ~~((director of student activities))~~ vice-president of student services.

**WSR 01-03-120**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
(Division of Assistance Programs)  
[Filed January 22, 2001, 4:14 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-24-019.

Title of Rule: WAC 388-400-0020 General assistance for pregnant women—General eligibility requirements.

Purpose: Clients that were served under the general assistance for pregnant women (GA-S) program now receive benefits through the temporary assistance for needy families (TANF) program. The repeal of this WAC is to remove references to an obsolete program.

Statutory Authority for Adoption: RCW 74.04.050.

Statute Being Implemented: RCW 74.04.050.

Summary: Repeal WAC 388-400-0020 to remove references to an obsolete program.

Reasons Supporting Proposal: Clients that were served under the general assistance for pregnant women (GA-S) program now receive benefits through the temporary assistance for needy families (TANF) program.

Name of Agency Personnel Responsible for Drafting: John Camp, Division of Assistance Programs, P.O. Box 45480, Olympia, WA 98504-5480, (360) 413-3232.

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: WAC 388-400-0020 General assistance for pregnant women—General eligibility requirements, was for the general assistance for pregnant women (GA-S) program. Pregnant women now receive benefits through the temporary assistance for needy families (TANF) program. The repeal of this WAC is to remove references to an obsolete program.

Proposal Changes the Following Existing Rules: The proposal eliminates an obsolete rule.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes as a result of this rule do not affect small businesses.

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 (5)(b)(vii) exempts DSHS rules that only [apply] to client medical or financial eligibility.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on February 27, 2001, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Kelly Cooper, DSHS Rules Coordinator, by February 20, 2001, phone (360) 664-6094, TTY (360) 664-6178, e-mail coopKD@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by February 27, 2001.

PROPOSED

Date of Intended Adoption: No earlier than February 28, 2001.

January 19, 2001  
Charles Hunter, Director  
Administrative Services Division

### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-400-0020 General assistance for pregnant women—General eligibility requirements.

### WSR 01-03-122

#### PROPOSED RULES

### UNIVERSITY OF WASHINGTON

[Filed January 23, 2001, 10:23 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 00-20-100.

Title of Rule: Chapter 478-355 WAC, Small works roster.

Purpose: To bring the University of Washington's small works roster in line with the new state statute.

Statutory Authority for Adoption: RCW 39.04.155.

Statute Being Implemented: RCW 39.04.155.

Summary: The state statute that had established the University of Washington's small works roster (RCW 28B.10.355) was eliminated in July 2000 and replaced by RCW 39.04.155. In addition, the expenditure limit authorized by the small works roster was raised to two hundred thousand dollars and procedures for use of the small works roster were revised.

Name of Agency Personnel Responsible for Drafting and Enforcement: Fredrick King, Assistant Vice-President, Capital Projects Office, University Facilities Building, University of Washington, (206) 543-5200; and Implementation: Weldon E. Ihrig, Executive Vice-President, 306 Gerberding Hall, University of Washington, (206) 543-6410.

Name of Proponent: University of Washington, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed amendments establish the University of Washington's small works roster under the new state statute, at the new dollar limit, and modify procedures to solicit bids from all appropriate contractors, or, as an alternative, from at least five contractors on the roster who have indicated the capability of performing the work being contracted.

Proposal Changes the Following Existing Rules: The proposed rules will amend WAC 478-355-010, 478-355-030, and 478-355-040.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Chapter 478-355 WAC

does not impose a disproportionate impact on small businesses and follows limitations set by state statute.

RCW 34.05.328 does not apply to this rule adoption. Chapter 478-355 WAC is not considered a significant legislative rule by the University of Washington.

Hearing Location: Room 209A of the Husky Union Building (HUB) University of Washington, Seattle, Washington, on March 1, 2001, at 12:00 noon.

Assistance for Persons with Disabilities: Contact University of Washington Disability Services Office by February 14, 2001, TDD (206) 543-6452, or (206) 543-6450.

Submit Written Comments to: Rebecca Goodwin Deardorff, Director, Administrative Procedures Office via one of the following routes by March 1, 2001. U.S. mail: University of Washington, 4014 University Way N.E., Seattle, WA 98105-6203. Campus mail: Box 355509. E-mail adminpro@u.washington.edu. Fax (206) 616-6294 by March 1, 2001.

Date of Intended Adoption: March 16, 2001.

January 19, 2001  
Rebecca Goodwin Deardorff, Director  
Administrative Procedures Office

AMENDATORY SECTION (Amending WSR 93-24-049, filed 11/24/93, effective 12/25/93)

**WAC 478-355-010 Authority.** This chapter is enacted by the board of regents of the University of Washington pursuant to RCW (~~28B.10.355~~) 39.04.155 authorizing the university to establish a small works roster for public works projects with an estimated cost of less than (~~one~~) two hundred thousand dollars.

AMENDATORY SECTION (Amending WSR 93-24-049, filed 11/24/93, effective 12/25/93)

**WAC 478-355-030 Project construction cost.** Whenever the estimated project construction cost of any University of Washington public work is less than (~~one~~) two hundred thousand dollars, the University of Washington executive vice president is authorized to use the small works roster in lieu of public advertisement for bids. In the event the legislature further increases the small works roster limit, the university is authorized to use the small works roster for any projects up to the subsequently authorized limit.

AMENDATORY SECTION (Amending Order 88-01, filed 9/14/88)

**WAC 478-355-040 Procedure for use.** (~~When the small works roster procedure is utilized, bids will be solicited from a bidders list of at least three contractors from the small works roster randomly selected from those who registered the capability of performing the type of public work at the required location and, if required, are MWBE certified. Only the contractors identified on the bidders list will be eligible to bid on the public work. If all bids are rejected, new bids may be solicited either by again utilizing the small works roster or by public advertisement for bids.~~) Procedures shall be established for securing telephone, written, or electronic quota-

tions from contractors on the appropriate small works roster to assure that a competitive price is established and to award contracts to the lowest responsible bidder. Bids may be solicited from all appropriate contractors on the roster, or, alternatively, from at least five contractors who have indicated the capability of performing the kind of work being contracted. If the estimated cost of the work is from one hundred thousand dollars to two hundred thousand dollars, and bids are not solicited from all appropriate contractors, all appropriate contractors must be notified that bids are being solicited. Detailed plans and specifications are not required as part of the bid invitation.

**WSR 01-03-130**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**

[Filed January 23, 2001, 12:46 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 00-12-002.

Title of Rule: Amendment of WAC 308-29-010 Definitions, 308-29-020 Financial statement, 308-29-030 License records, 308-29-050 Suite or judgment notification, 308-29-060 Sale of a licensed collection agency, 308-29-070 Disclosure of rate of interest; and 308-29-080 Notice to credit reporting bureaus.

New sections WAC 308-29-025 What records must a licensee maintain at the licensed location?, 308-29-090 Application of brief adjudicative proceedings, 308-29-100 Preliminary record in brief adjudicative proceedings, 308-29-110 Conduct of brief adjudicative proceedings, and 308-29-120 Appeal process for brief adjudicative proceedings.

Purpose: To amend existing rules for clarity and to simplify language and requirements and the proposal of new rules to enable the director to enforce his duties under this chapter.

Statutory Authority for Adoption: RCW 19.16.410.

Summary: All amended rules are being revised for clarity and to simplify the language and requirements with no major changes to content or the intent of the rules. All new rules are proposed to clarify RCW and to better enable the director to enforce his duties under this chapter. These changes are based on the rules review completed by the Department of Licensing (DOL) and public comments received in writing.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Harumi Tucker Tolbert, Department of Licensing, 405 Black Lake Boulevard S.W., Olympia, (360) 664-1389.

Name of Proponent: Department of Licensing, Business and Professions Division, P.O. Box 9034, Olympia, WA 98507-9034, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 308-29-010 Definitions, rewritten for clarity, added definition for "managing employee"; WAC 308-29-

020 Financial statement, rewritten for clarity without changing requirements; WAC 308-29-025 What records must a licensee maintain at the licensed location?, new section added to clarify the records required by RCW 19.16.230 (2) and (3); WAC 308-29-030 Do licensees have to notify the director of changes in ownership, officers, directors, or managing employees?, title changed to better reflect section content; rewritten for clarity without changing requirements; WAC 308-29-045 Collection agency fees, changed name of division to reflect division's current name; WAC 308-29-050 Are licensees required to notify the director of law suits, judgments, etc., involving the licensee or its employees?, title changed to better reflect section content; rewritten for clarity; WAC 308-29-060 What are the licensees' obligations when transferring an interest in a collection agency?, title changed to better reflect section content; rewritten for clarity and to better cover the numerous types of transactions in today's world; WAC 308-29-070 Disclosure of rate of interest, written for clarity without changing requirements; WAC 308-29-080 If a debt is reported to a credit reporting agency, does a collection agency have to notify the credit reporting agency when the debt is satisfied?, title changed to better reflect section content; rewritten for clarity without changing requirements; and WAC 308-29-090 Application of brief adjudicative proceedings, 308-29-100 Preliminary record in brief adjudicative proceedings, 308-29-110 Conduct of brief adjudicative proceedings and 308-29-120 Appeal process for brief adjudicative proceedings, new sections added which allows for the administration of brief adjudicative proceedings conducted by request of an applicant, licensee, or board chair for matters limited solely to the following issues: Board proposal to deny an application for licensure; determining if a person is in compliance with a final order or agreement previously issued by the board; determining if a license has met all minimum requirements for renewal; and determining if a licensee meets the surety bond requirements to maintain their license.

Proposal Changes the Following Existing Rules: All amended rules are being revised for clarity and to simplify the language and requirements with no major changes to content or the intent of the rules. All new rules are proposed to clarify RCW and to better enable the director to enforce his duties under this chapter. These changes are based on the rules review completed by the DOL and public comments received in writing.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required. There will be no cost for complying with the proposed or new rules.

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

Hearing Location: Department of Licensing, Business and Professions Division, Conference Room #1, 405 Black Lake Boulevard S.W., Olympia, WA 98507-9034, PLEASE CHECK W/RECEPTIONIST TO RECEIVE PARKING PASS, on March 1, 2001, at 9:00 a.m. to 1:00 p.m.

Assistance for Persons with Disabilities: Contact Harumi Tucker Tolbert by February 19, 2001, TDD (360) 586-2788.

Submit Written Comments to: Harumi Tucker Tolbert,  
Department of Licensing, Collection Agency Board, P.O.  
Box 9034, Olympia, WA 98507-9034, fax (360) 753-9668,  
by February 19, 2001.

Date of Intended Adoption: March 2, 2001.

January 23, 2001

Nancy Skewis, Administrator  
Master License Service

AMENDATORY SECTION (Amending Order PL-123, filed  
5/17/72)

**WAC 308-29-010 Definitions.** ~~((For the purpose of administering chapter 19.16 RCW, the following terms shall be considered in the following manner:))~~

(1) Words and terms used in these rules have the same meaning as each has under chapter 19.16 RCW unless otherwise clearly provided in these rules, or the context in which they are used in these rules clearly indicates that they be given some other meaning.

(2) "Branch office" ~~((shall mean))~~ is any location physically separated from the principal place of business of a licensee ~~((from which))~~ where the licensee ~~((or his employees))~~ conducts any activity meeting the criteria of a collection agency ~~((under the definition of that term))~~ or out-of-state collection agency as defined in RCW 19.16.100.

~~((2))~~ (3) "Repossession services" conducted by any person ~~((, firm, partnership, trust, joint venture, association or corporation,))~~ shall not be ~~((considered within the definition of))~~ deemed a collection agency as defined in RCW 19.16.100, unless such person ~~((, firm, partnership, trust, joint venture, association or corporation))~~ is repossessing or is attempting to repossess property for a third party and is authorized ~~((by such third party))~~ to accept cash or any other thing of value from the debtor in lieu of actual repossession.

(4) "Managing employee" is an individual who has the general power to exercise judgment and discretion in acting on behalf of the licensee on an overall or partial basis and who does not act in an inferior capacity under close supervision or direction of a superior authority (as distinguished from a nonmanaging employee who is told what to do and has no discretion about what he or she can and cannot do and who is responsible to an immediate superior).

AMENDATORY SECTION (Amending Order PL-123, filed  
5/17/72)

**WAC 308-29-020 Financial statement.** Each applicant ~~((for a collection agency license shall be required to))~~ must submit a current ~~((within prior three months))~~ financial statement of assets and liabilities. Such statement ~~((with))~~ shall be submitted in the manner and form ~~((as may be))~~ prescribed by the director. Whenever a licensee applies for annual license renewal, such licensee ~~((will be required to submit a certification as to the financial solvency of the collection agency))~~ must sign the renewal form that contains a certification:

(1) That the collection agency's true net worth complies with the requirements of RCW 19.16.245; and

(2) That the trust account(s) have sufficient funds to pay all obligations to clients.

#### NEW SECTION

**WAC 308-29-025 What records must a licensee maintain at the licensed location? Required records:**

The collection agency must maintain the following records at the licensed location:

(1) **Bank trust records.**

(a) Duplicate receipt book or cash receipts journal recording all receipts showing date received and the customer who paid;

(b) Sequentially numbered checks with check register or cash disbursement journal or check stubs showing the purpose of the disbursement and the client account it is debited to;

(c) Bank deposit slips verifying the date deposited and reconciled with receipt book or cash receipts journal;

(d) Client's accounting ledger or client remittance report summarizing all moneys received and all moneys disbursed for each client collection account; and

(e) Reconciled bank statements and canceled checks for all trust bank accounts.

(2) **Other records.**

(a) Copies of all financial statements of licensee showing solvency;

(b) Annotations of events or conversations with debtors;

(c) Transactions folders containing all agreements, contracts, documents, statements and correspondence for each debtor and client (may be maintained electronically or on other retrievable medium); and

(d) Collection agreements authorizing the licensee to collect debts and listing all fees or charges to be charged to the debtor or client.

**Accuracy, accessibility and retention of records:**

All required records shall be accurately posted, kept up-to-date and kept at the address where the collection agent is licensed to do business. Such records shall be retained and available for inspection by the director or the director's authorized representative during normal business hours. The collection agent shall provide copies of required records upon demand by the director or the director's authorized representative.

(3) **Licensee's responsibilities:**

(a) The licensee shall be responsible for the custody, safety and the accuracy of entries in all required records. The licensee retains this responsibility even though another person or persons assume the duties of preparation, custody or recording.

(b) The licensee shall obtain copies of the Collection Agency Act (chapter 19.16 RCW) and the rules implementing the act (chapter 308-29 WAC) and be knowledgeable of these laws and rules in their most recent version.

(c) The licensee must ensure accessibility of the licensed location and records to the director or the director's representative.

(d) The licensee shall obtain collection agreements authorizing the licensee to collect debts and listing all fees or charges to be charged to the debtor or client.

**(4) Administration of trust funds and client property:**

(a) A licensee who receives funds or moneys from any debtor, client or customer shall hold the funds or moneys in trust for the purposes of the agreement and shall not utilize such funds or moneys for the benefit of the licensee or any person not entitled to such benefit.

(b) All funds or moneys received shall be deposited into a federally insured banking institution.

(c) The trust bank account will be in the licensee's name and identified as a trust account.

(d) Preauthorization of regular disbursements or deductions on an ongoing basis by financial institutions is not permitted for multient account.

(e) When a contract between the licensee and client expires, terminates, or is no longer in existence, the licensee shall give a closing statement to the client summarizing all receipts and payments since the last statement and shall return all instruments and client property to the client within ten business days after written demand from the client.

**AMENDATORY SECTION** (Amending Order PM 653, filed 5/20/87)

**WAC 308-29-030** (~~License records.~~) **Do licensees have to notify the director of changes in ownership, officers, directors, or managing employees?**

(1) Each licensee shall notify the director in writing (~~within ten days after~~):

(a) Prior to any change in its ownership (~~of a proprietorship or~~);

(b) Within ten days of any change in (~~owners,~~) officers, directors, or managing employees of each office location. (~~Such~~)

The notification shall consist of reporting the individual's name, position, (~~home~~) address and effective date of change.

(2) If requested by the department, each licensee shall (~~advise~~) notify the department in writing of any additional information regarding the change or changes in subsection (1) of this section (~~that the department may seek~~) within ten days after the (~~receipt of such a~~) mailing of the request (~~from the department~~).

**AMENDATORY SECTION** (Amending WSR 90-06-052, filed 3/2/90, effective 4/2/90)

**WAC 308-29-045 Collection agency fees.** The following fees shall be charged by the (~~professional licensing~~) business and professions division of the department of licensing:

Title of Fee	Fee
Collection agency—Main office:	
Original application	\$650.00
Investigation (nonrefundable)	250.00
Renewal	600.00

Title of Fee	Fee
Late renewal penalty	400.00
Reregistration fee after 30 days	1,650.00
Duplicate license	15.00
Branch office ( <u>with WA main office</u> ):	
Original application	350.00
Renewal	350.00
Late renewal penalty	200.00
Reregistration fee after 30 days	900.00
Duplicate license	15.00

**AMENDATORY SECTION** (Amending Order PL-306, filed 6/1/79)

**WAC 308-29-050** (~~Suit or judgment notification.~~) **Are licensees required to notify the director of lawsuits, judgments, etc., involving the licensee or its employees?**

(1) (~~Every licensee shall, within twenty days, notify the director in writing of any judgment entered in any court whatsoever, the subject matter of which involves any of the practices prohibited in RCW 19.16.250 or any of the grounds set forth in RCW 19.16.120 (4)(e), 19.16.120 (4)(d) or 19.16.120 (4)(f), and in which the licensee or any owner, officer, director or managing employee of a nonindividual licensee is named a party therein.~~

(2) Every licensee shall, within twenty days after service or knowledge thereof, notify the director in writing of the filing of a petition in bankruptcy, or any tax lien or warrant, or of the filing of any suit, complaint, counterclaim or cross claim served or filed in any court in which the licensee or any owner, officer, director or managing employee of a nonindividual licensee is named a party and which involves any alleged violation of RCW 19.16.210 or which is or purports to be brought on behalf of the state of Washington or three or more persons or entities.

(3) Within twenty days after the entry of any judgment against the licensee or any owner, officer, director or managing employee of a nonindividual licensee, the licensee shall notify the director in writing of the judgment, if the judgment arises out of any of the practices prohibited in RCW 19.16.250 or of any of the grounds set forth in RCW 19.16.120.

(2) Within twenty days after the filing, service or knowledge of a tax lien or warrant filed against the licensee or any owner, officer, director or managing employee of a nonindividual licensee, the licensee shall notify the director in writing of the lien or warrant.

(3) Within twenty days after the filing, service or knowledge of any suit, complaint, counterclaim or cross claim served or filed in any court in which the licensee or any owner, officer, director or managing employee of a nonindividual licensee is named a defendant, the licensee shall notify the director in writing of such matter if it:

- (a) Involves alleged violations of RCW 19.16.210; or
- (b) Is or purports to be brought on behalf of the state of Washington or three or more persons.

PROPOSED

(4) Within twenty days after the licensee or any owner, officer, director or managing employee of a nonindividual licensee files a petition for bankruptcy, the licensee shall notify the director in writing of the filing of the petition.

(5) The written notification ((in writing)) shall be sent by certified or registered mail and shall identify:

- The ((name or)) names of all parties, plaintiff and defendant((;));
- The court in which the action is commenced((;)); and
- The cause number assigned to the action.

AMENDATORY SECTION (Amending Order PM 653, filed 5/20/87)

WAC 308-29-060 ((Sale of a licensed collection agency.)) **What are the licensees' obligations when transferring an interest in a collection agency?** ((Whenever a licensee intends to sell or otherwise transfer his or its interest in a collection agency, the seller (licensee) and buyer or transferee will insure that there is incorporated in the body of the sale agreement or document of transfer appropriate clauses that set forth provisions relative to the following:

(1) The Washington state collection agency license is not transferable or assignable and buyer is responsible to initiate whatever administrative action is necessary to obtain such license as required by law.

(2) Whether buyer or seller has the responsibility for all payments due customers on or before the effective date of sale.

(3) Whether buyer or seller has the responsibility for maintaining and preserving the accounting records as prescribed by RCW 19.16.230(3).

(4) Whether buyer is restricted from or is authorized to use the seller's collection agency's business name.

(5) The buyer (transferee) or seller (transferor) shall provide notice of the sale or transfer to the seller's or transferor's clients with open accounts. The sale or transfer document shall provide which party to the sale or transfer is responsible for providing said notice.)) (1) In order to transfer the licensee's interest in a collection agency or out-of-state collection agency, unless the transfer is due to the death of an individual licensee, the licensee shall notify all of its clients with open accounts, or cause such clients to be notified, of the transfer of the licensee's interest.

(2) The instrument by which the interest is transferred shall be in writing, and shall indicate:

(a) That the license or branch office certificate granted under chapter 19.16 RCW is not assignable or transferable, that the transfer of the licensee's interest in the business does not include such license or certificate, that the transferee of the interest must apply for a license and/or certificate in accordance with the law, and that the transferee of the interest may not act, assume to act, or advertise as a collection agency or out-of-state collection agency as defined in chapter 19.16 RCW, without first having applied for and obtained a license under that chapter;

(b) Which party to the transaction bears responsibility for payment to clients of amounts due them between the date

the instrument is executed and the effective date of the transfer;

(c) Which party to the transaction bears responsibility for maintaining and preserving the records of the collection agency or out-of-state collection agency as prescribed by RCW 19.16.230 and these rules;

(d) Whether the transfer of interest includes the right to use of the business name or trade name of the collection agency or out-of-state collection agency; and

(e) Which party to the transaction bears responsibility for providing written notice of the transfer to the clients of the collection agency who have open accounts with the collection agency or out-of-state collection agency.

(3) The licensee must provide the director a copy of the instrument transferring the licensee's interest signed by all parties to the transaction and shall indicate the effective date of the transfer.

AMENDATORY SECTION (Amending Order PM 653, filed 5/20/87)

**WAC 308-29-070 Disclosure of rate of interest.** Whenever a collection agency is required pursuant to RCW 19.16.250 (8)(c) to disclose to the debtor that interest charges are being added to the original obligation, the collection agency must also disclose to the debtor the rate of interest((; said)). The rate of interest ((not to)) cannot exceed the legal maximum rate ((pursuant to)) established in chapter 19.52 RCW.

AMENDATORY SECTION (Amending Order PM 653, filed 5/20/87)

**WAC 308-29-080 ((Notice to credit reporting bureaus.)) **Does a collection agency have to notify the credit reporting agency when the debt is satisfied?** ((In the event)) If a collection agency informs a credit-reporting ((bureau)) agency of the existence of a claim, the collection agency shall((, within forty five days of satisfaction of said claim,)) promptly notify the credit-reporting ((bureau that said)) agency that the claim has been satisfied. In the absence of other applicable law, "promptly" shall mean within forty-five days after satisfaction of the claim.**

NEW SECTION

**WAC 308-29-090 Application of brief adjudicative proceedings.** The board adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted by request of an applicant or licensee, or at the discretion of the board chair pursuant to RCW 34.05.482, for the categories of matters set out below. Brief adjudicative proceedings may be conducted where the matter is limited solely to one or more of the following issues:

(1) Whether an applicant for licensure meets the minimum criteria for a license to practice as a collection agency, out-of-state collection agency, or collection agency branch office in this state and the board proposes to deny the application;

PROPOSED

(2) Whether a person is in compliance with the terms and conditions of a final order or agreement previously issued by the board;

(3) Whether a license holder requesting renewal has submitted all required information and meets minimum criteria for renewal; and

(4) Whether a license holder meets the surety bond requirements to maintain their license and the board proposes to terminate the license.

#### NEW SECTION

**WAC 308-29-100 Preliminary record in brief adjudicative proceedings.** (1) The preliminary record with respect to an application for an original or renewal license shall consist of:

(a) The application for the license, renewal, or reinstatement and all associated documents;

(b) All documents relied upon by the department of licensing collection agency program in proposing to deny the license, renewal, or reinstatement; and

(c) All correspondence between the applicant for license, renewal, or reinstatement and the program regarding the application.

(2) The preliminary record with respect to determination of compliance with a previously issued final order or agreement shall consist of:

(a) The previously issued final order or agreement;

(b) All reports or other documents submitted by, or at the direction of, the license holder, in full or partial fulfillment of the terms of the final order or agreement;

(c) All correspondence between the license holder and the program regarding compliance with the final order or agreement; and

(d) All documents relied upon by the program showing that the license holder has failed to comply with the previously issued final order or agreement.

(3) The preliminary record with respect to determination of compliance with the surety bond requirements shall consist of:

(a) The surety bond cancellation notice from the insurance company;

(b) All documents relied upon by the program in proposing to terminate the license; and

(c) All correspondence between the license holder and the program regarding the surety bond cancellation.

#### NEW SECTION

**WAC 308-29-110 Conduct of brief adjudicative proceedings.** (1) Brief adjudicative proceedings shall be conducted by a presiding officer designated by the board. The presiding officer for brief adjudicative proceedings shall have agency expertise in the subject matter but shall not have personally participated in the decision to issue the initiating document.

(2) The parties or their representatives may present written documentation. The presiding officer for brief adjudicative proceedings shall designate the date by which written documents must be submitted by the parties.

(3) The presiding officer for brief adjudicative proceedings may, in his or her discretion, entertain oral argument from the parties or their representatives.

(4) No witnesses may appear to testify.

(5) In addition to the record, the presiding officer for brief adjudicative proceedings may employ agency expertise as a basis for decision.

(6) The presiding officer for brief adjudicative proceedings shall not issue an oral order. Within ten days of the final date for submission of materials or oral argument, if any, the presiding officer for brief adjudicative proceedings shall enter an initial order.

#### NEW SECTION

**WAC 308-29-120 Appeal process for brief adjudicative proceedings.** If you do not receive satisfaction from the brief adjudicative proceeding, you may appeal to the board for an administrative review. The board must receive your written appeal within twenty-one days after the brief adjudicative proceeding order is posted in the United States mail. The board considers your appeal and either upholds or overturns the brief adjudicative proceeding decision. The board's decision, also called an order, is mailed to you.

### WSR 01-03-143

#### PROPOSED RULES

#### PUBLIC WORKS BOARD

[Filed January 24, 2001, 9:31 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 021-005 [00-21-005].

Title of Rule: 1. Organization and operation of the Public Works Board, WAC 399-10-010.

2. Loan and financing guarantee applications, WAC 399-30-030, 399-30-042, and 399-30-050 [399-30-040].

3. Disclosure of recusal, WAC 399-50-040.

Statutory Authority for Adoption: RCW 43.155.040(4).

Statute Being Implemented: Chapter 43.155 RCW.

Summary: These WAC changes will provide for updated public information access; clarify eligible costs; clarify the board's intent to consider past management practices; and eliminate outmoded language in the board's ethics code.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Pete Butkus, P.O. Box 48319, Olympia, WA 98504-8319, (360) 725-5003.

Name of Proponent: Public Works Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 399-10-010, update contact numbers for the public.

WAC 399-30-030, 399-30-042 and 399-30-050 [399-30-040], add eligible costs concerning public communication and value engineering; clarify that past management prac-



tices can be considered by the board when making loan or financing guarantee decisions.

WAC 399-50-040, remove outmoded language from the board's ethics code.

Proposal Changes the Following Existing Rules: Language as noted above is added to the specific WAC sections with the exception of WAC 399-50-050 [399-50-040], which removes language.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There is no small business impact, all customers are local governments.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: Wyndham Gardens Hotel, 18118 Pacific Highway South (International Boulevard), SeaTac, WA, on March 6, 2001, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact the receptionist by February 23, 2001, TDD (360) 586-4224.

Submit Written Comments to: Pete Butkus, Public Works Board, P.O. Box 48319, Olympia, WA 98504-8319, fax (360) 664-3029, by February 23, 2001.

Date of Intended Adoption: March 6, 2001.

January 24, 2001

Pete Butkus

Executive Director

**AMENDATORY SECTION** (Amending WSR 98-24-010, filed 11/19/98, effective 12/20/98)

**WAC 399-10-010 Organization and operation of the public works board.** (1) The public works board is a thirteen-member board appointed by the governor under RCW 43.155.030.

(2) The governor appoints one of the general public members as chair. The board may elect other officers for terms deemed necessary.

(3) The department of community, trade, and economic development provides staff support and office space to the board at P.O. Box 48319, Olympia, Washington 98504-8319; phone (360) ((753-2200)) 725-5000.

((The board's Internet site is: [WWW.CRAB.WA.GOV/PWTF](http://WWW.CRAB.WA.GOV/PWTF)))

**AMENDATORY SECTION** (Amending WSR 98-24-010, filed 11/19/98, effective 12/20/98)

**WAC 399-30-030 Loan and financing guarantee applications.** (1) Any local government in the state of Washington may apply for a loan or financing guarantee to assist in financing critical public works projects.

(2) All applicants must meet the following conditions:

(a) Applicant cities and counties must be imposing a real estate excise tax under RCW 82.46.010(2) at a rate of at least one-quarter of one percent;

(b) Applicant local governments must have developed a long-term plan for financing public works needs as further described in the loan application package under "capital facilities planning."

(3) Direct costs eligible for public works loans are those costs directly attributable to a specific project and include:

(a) Work done by employees of the applicant, or by other government employees under an inter-local agreement or contract limited to: Engineering, environmental review, design activities, acquisition of rights of way or property, construction inspection activities, roadway seal coating (if bids from private sector contractors have been solicited and compared with the inter-local agreement proposal), and the cleaning, sterilization, or bacteriological testing of water system components prior to public use.

(i) Salaries and wages (at actual or average rates) covering productive labor hours of the local government employees (excluding the administrative organization of the operating unit involved). The cost of services rendered by employees generally classified as administrative are considered a direct cost only when such employees are assigned for short periods of time to perform on a full-time basis the types of services described above and when similar procedures are followed;

(ii) Employee benefits relating to direct labor are considered a direct cost of construction projects. The following items may be included as employee benefits:

- (A) F.I.C.A. (Social Security) - employer's share;
- (B) Retirement benefits;
- (C) Hospital, health, dental, and other welfare insurance;
- (D) Life insurance;
- (E) Industrial and medical insurance;
- (F) Vacation;
- (G) Holiday;
- (H) Sick leave; and
- (I) Military leave and jury duty.

Employee benefits must be calculated as a percentage of direct labor dollars. The computation of predetermined percentage rates to be applied to current labor costs must be based on the average of total employee benefits and total labor costs for the prior fiscal year and adjusted by known current year variations.

(b) Contract engineering, planning, legal, and financial planning services. The board reserves the right to declare ineligible legal costs that are unreasonable and disproportionate to the project.

(c) Right-of-way acquisition costs including:

(i) Purchase of land and easements acquired for and devoted to the project;

(ii) Purchase of improvements;

(iii) Adjustment or reestablishment of improvements;

(iv) Salaries, expenses or fees of appraisers, negotiators or attorneys;

(v) Removal or demolition of improvement;

(vi) Other direct costs in connection with the acquisition. Amounts received from the sale of excess real property or improvements and from any rentals will be reduced from the direct cost.

(d) Contract construction work.

(e) Direct vehicle and equipment charges at the actual rental cost paid for the equipment or, in the case of city or county-owned equipment, at the rental rates established by the local government's "equipment rental and revolving fund" following the methods prescribed by the division of municipi-

pal corporations. However, such costs must be charged on a uniform basis to equipment used for all projects regardless of the source of funding. Cities with a population of eight thousand or less not using type of fund are allowed the same rates as used by the department of transportation.

(f) Direct materials and supplies.

(i) An overhead rate or "loading factor" is not considered an appropriate additive to the actual cost of materials and supplies used on construction projects unless the factor is readily and properly supportable by the governmental unit's accounting records.

(ii) The cost, or reasonable estimate thereof, of materials paid for as contract estimate items, but not used, will be considered a reduction of direct costs. Any material that is salvaged in connection with a project will be assigned a reasonable value and considered a reduction of direct costs.

(iii) Wetland plants and other materials used for wetland planting, wildlife habitat, or fish habitat may be provided to a public or nonprofit organization without a reduction of direct costs.

(g) Interdepartmental charges for work performed by the local government for the benefit of specific construction projects is limited to direct costs plus an allocation of indirect costs based on ten percent of direct labor dollars, excluding employee benefits.

(h) Other direct costs incurred for materials or services acquired for a specific project are eligible for participation by public works loan funds and may include, but are not limited to such items as:

(i) Public communication plans and activities;

(ii) Telephone charges;

~~((+))~~ (iii) Reproduction and photogrammetry costs;

~~((+))~~ (iv) Video and photography for project documentation;

~~((+))~~ (v) Computer usage; ~~and~~

~~((+))~~ (vi) Printing and advertising; and

(vii) Value engineering and performance audits.

(4) Other than work identified in subsection (3)(a) of this section, no government employee labor related costs, including force account work, are eligible for financing assistance or to be considered as local match under this chapter.

(5) Applications must be submitted in writing, on forms provided by the board for the current funding cycle.

(6) A responsible official of the applicant jurisdiction must sign and verify each application for financial assistance. The official must also provide the board with additional materials or information in support of the application when requested by the board or its staff.

**AMENDATORY SECTION** (Amending WSR 98-24-010, filed 11/19/98, effective 12/20/98)

**WAC 399-30-040 Application evaluation procedure and board deliberations.** (1) The board will consider and prioritize, or disapprove, all applications for loans or financing guarantees at regular or special meetings of the board. The applicant will be notified of meetings at which its application will be considered.

(2) Applications will be evaluated and prioritized in accordance with the following procedures:

(a) Staff will log in all applications as received.

(b) Staff will review all applications for compliance with the minimum qualification requirements of WAC 399-30-030(2). Jurisdictions whose applications do not meet the minimum qualification requirements will be notified in writing of the disqualification.

(c) Staff will perform an evaluation of all applications which meet the requirements of WAC 399-30-030(2). Applications will be scored according to the number of points awarded for responses provided in the statements of local management efforts and project need.

(i) Not less than sixty points, of a one hundred point total, will be assigned to responses to questions identified in the application as relating to local management effort.

(ii) The remaining forty points will be assigned to responses to questions identified in the application as relating to project need.

(d) Staff will provide the board with evaluation and scoring of the applications. All application materials will be available to the board for their deliberations. The board will approve a ranked list of projects based on the information provided to them by the staff and the applications.

(e) The board may adjust the ranked list in consideration of the following factors:

(i) Geographical balance;

(ii) Economic distress;

(iii) Type of projects;

(iv) Type of jurisdiction;

(v) Past management practices of the applicant, including, but not limited to, late loan payments, loan defaults, audit findings, or inability to complete projects within the time allowed by loan agreement;

(vi) Other criteria that the board considers advisable.

(f) Staff will verify critical information on each project as required by the board.

(g) In order to ensure fairness to all jurisdictions with applications pending before the board, the board will not accept oral or written testimony from any applicant while deliberating loan priorities, other than specific responses to information requests initiated by the board as provided in (h) of this subsection.

(h) The board may consult with officials of jurisdictions having projects submitted for funding on any issue it wishes to address.

(3) Applicants will be notified in writing of board decisions.

**AMENDATORY SECTION** (Amending WSR 98-24-010, filed 11/19/98, effective 12/20/98)

**WAC 399-30-042 Application evaluation procedure and board deliberations—Capital planning support.** (1) The board will consider and approve, or disapprove, all applications for capital planning support loans at regular or special meetings of the board. The applicant will be notified of meetings at which its application will be considered.

(2) All applications will be evaluated in accordance with the following procedures:

(a) Staff will log in all applications as received.

(b) Staff will review all applications for compliance with the minimum qualification requirements of WAC 399-30-030(2). Jurisdictions whose applications do not meet the minimum requirements will be notified in writing of the disqualification.

(c) Staff will perform an evaluation of applications which meet the requirements of WAC 399-30-030(2) to determine if the application is consistent with the policies contained in the capital planning support loan application.

(d) Those applications found to be consistent with board policies may be recommended to the board for funding. All application materials will be available to the board for its deliberations. The board will approve a list of projects based on the information provided to it by the staff and the applications.

(e) The board may then adjust the list in consideration of the following factors:

(i) Geographical balance;

(ii) Economic distress;

(iii) Past management practices of the applicant, including, but not limited to, late loan payments, loan defaults, audit findings, or inability to complete projects within the time allowed by loan agreement;

(iv) Other criteria that the board considers advisable.

(f) Staff will verify critical information on each project as required by the board.

(g) The board may consult on any issue it wishes to address, with officials of jurisdictions having projects submitted for funding.

(3) Applicants will be notified in writing of board decisions.

**AMENDATORY SECTION** (Amending WSR 00-11-021, filed 5/9/00, effective 6/9/00)

**WAC 399-50-040 Disclosure of recusal.** A board member shall disclose to the public the reasons for his or her recusal from any board action at the time of the recusal. A board member shall disclose to the public the nature of any interest the member has in a project on the annual construction roster or other aggregated list or roster of ~~((ten or more))~~ contracts, projects, or loans at the time the roster or list is considered by the board. Board staff shall record each such recusal or disclosure and the basis therefor.

#### WSR 01-03-154

#### PROPOSED RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed January 24, 2001, 11:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-22-083.

Title of Rule: WAC 388-535-1230 Crowns.

Purpose: To clarify that Medicaid does not cover laboratory-processed, or specially fitted, crowns for posterior teeth.

The department is reviewing and updating all of chapter 388-535 WAC, Dental-related services. However, there is an immediate need to clearly state in rule the policy regarding crowns (especially special crowns for posterior teeth), so the department is proposing to amend WAC 388-535-1230 Crowns, as soon as possible and amend the remainder of the chapter at a later date.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.035, 74.09.500, 74.09.520.

Statute Being Implemented: RCW 74.09.500, 74.09.520, 42 U.S.C. 1396d(a), C.F.R. 440.100 and 440.225.

Summary: The department added language to this section to clarify that laboratory-processed (or specially fitted) crowns for posterior teeth are not covered. The department also rewrote subsections of this section to make them clearer, without changing policy.

Reasons Supporting Proposal: To clarify department policy regarding noncoverage for laboratory-processed, or specially fitted, crowns for posterior teeth, as well as clarify policy regarding coverage, prior authorization requirements for other crowns, and what is included in the reimbursement for crowns.

Name of Agency Personnel Responsible for Drafting: Ann Myers, DPS/RIP, P.O. Box 45533, Olympia, WA 98504-5533, (360) 725-1345; Implementation: Sharon Morrison, DHSQS, P.O. Box 45506, Olympia, WA 98504-5506, (360) 725-1671; Enforcement: Carree Moore, DPS/FSS, P.O. Box 45530, Olympia, WA 98504-5530, (360) 725-1653.

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

Rule is necessary because of state court decision, letter from Wn. Thomas McPhee, Judge, re: *Gonzales v. DSHS*, Thurston County Cause No. 00-2-00839-0 and *Well - Alphonso v. DSHS*, Thurston County Cause No. 00-2-00469-6.

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule clarifies that the department does not cover laboratory-processed, or specially fitted, crowns for posterior teeth. Although this is not a change in current policy, the policy is not stated clearly enough to avoid some confusion, so the proposed amendment is designed to clearly state department policy. The proposed rule also more clearly states current policy regarding coverage, prior authorization requirements for other crowns, and what is included in the reimbursement for crowns.

Proposal Changes the Following Existing Rules: The department added a statement to the rule listed above to clarify that the department does not cover laboratory-processed, or specially fitted, crowns, for posterior teeth. Other subsections in WAC 388-535-1250 were rewritten to be clearer and more easily understood.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rule, and concludes that because the proposed amendment does not change, but clarifies, current policy, there will be no more than a minor impact on the businesses affected by the rule.

RCW 34.05.328 does not apply to this rule adoption. The department has analyzed the proposed rule, and con-

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cludes that because it does not change, but clarifies, current policy, it does not meet the definition of a "significant legislative rule." However, the department did prepare an analysis for this rule. It is available by contacting Ann Myers, Regulatory Improvement Program Manager, Medical Assistance Administration, P.O. Box 45533, Olympia, WA 98504, (360) 725-1345.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on February 27, 2001, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Kelly Cooper, Rules Coordinator, by February 20, 2001, phone (360) 664-6094, TTY (360) 664-6178, e-mail coopeKD@dshs.wa.gov.

Submit Written Comments to: Identify WAC Number, Kelly Cooper, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by February 27, 2001.

Date of Intended Adoption: Not earlier than February 28, 2001.

January 24, 2001  
Bonita H. Jacques, Chief  
Office of Legal Affairs

**AMENDATORY SECTION** (Amending WSR 99-07-023, filed 3/10/99, effective 4/10/99)

**WAC 388-535-1230 Crowns.** (1) Subject to the limitations in WAC 388-535-1100, MAA covers the following crowns ((do not need)) without prior authorization ((and are covered)):

- (a) Stainless steel, and
- (b) Nonlaboratory resin for primary anterior teeth.
- (2) MAA does not cover laboratory-processed crowns for posterior teeth.

(3) MAA requires prior authorization for the following crowns, which are limited to single restorations for permanent anterior (upper and lower) teeth ((and require prior authorization by MAA)):

- (a) Porcelain fused to a **high noble metal**;
- (b) Porcelain fused to a predominately **base metal**;
- (c) Porcelain fused to a **noble metal**;
- (d) Porcelain with ceramic substrate;
- (e) Full cast **high noble metal**;
- (f) Full cast predominately **base metal**;
- (g) Full cast **noble metal**; and
- (h) Resin (laboratory).

((3)) (4) Criteria for covered crowns as described in subsections (1) and (3) of this section:

(a) Crowns may be authorized when the ((tooth meets the criteria of)) crown is dentally necessary.

(b) Coverage is based upon a supportable five year prognosis that the client will retain the tooth if the tooth is crowned. The provider must submit the following client information:

- (i) The overall condition of the mouth;
- (ii) **Oral health status**;
- (iii) Patient maintenance of good oral health status;

- (iv) **Arch integrity**; and
- (v) Prognosis of remaining teeth (that is, no more involved than periodontal case type II).

(c) **Anterior** teeth must show traumatic or pathological destruction to loss of at least one incisal angle.

((4)) (5) The laboratory processed crowns described in subsection ((2)) (3) are covered:

(a) ((Are covered)) Only when a lesser service will not suffice because of extensive coronal destruction, and treatment is beyond intracoronal restoration:

(b) Only once per permanent tooth in a five year period; ((b) Are covered))

(c) For endodontically treated anterior teeth only after satisfactory completion of the root canal therapy. Post-endodontic treatment X-rays must be submitted for prior authorization of these crowns((-and

(e) Including tooth and soft tissue preparation, amalgam or acrylic build-ups, temporary restoration, cement base, insulating bases, impressions, and local anesthesia; and

(d) Are covered when a lesser service will not suffice because of extensive coronal destruction, and treatment is beyond intracoronal restoration)).

(6) MAA reimburses only for covered crowns as described in subsections (1) and (3) of this section. The reimbursement is full payment; all of the following are included in the reimbursement and must not be billed separately:

- (a) Tooth and soft tissue preparation;
- (b) Amalgam or acrylic build-ups;
- (c) Temporary restoration;
- (d) Cement bases;
- (e) Insulating bases;
- (f) Impressions;
- (g) Seating; and
- (h) Local anesthesia.

WSR 01-03-155  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Aging and Adult Services [Administration])  
[Filed January 24, 2001, 11:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-17-153.

Title of Rule: WAC 388-71-0605 Am I eligible for residential services? and 388-71-0613 For what days will the department pay the residential care facility?

Purpose: To establish rules for whether the department pays residential providers on last day of service; and remove archaic, obsolete language from WAC 388-71-0605, specifically around receiving residential services through SSI.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.04.200, and 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04.057, 74.04.200, and 74.08.090.

**Summary:** This rule creates a new WAC to clarify whether the department pays for the last day of services. This policy has been part of the contract language, but not referenced in WAC. It also removes obsolete language regarding clients receiving services through SSI.

**Name of Agency Personnel Responsible for Drafting and Implementation:** Brooke Buckingham, AASA, 640 Woodland Square Loop, Lacey, 725-2530; and Enforcement: Debbie Knauf, AASA, 640 Woodland Square Loop, Lacey, 725-2393.

**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:** The purpose of this rule is to establish rules for whether the department pays residential providers on last day of service; and remove archaic, obsolete language from WAC 388-71-0605, specifically around receiving residential services through SSI.

The department is not changing existing policies or procedures, but is clarifying the WAC to reflect current practices.

**Proposal Changes the Following Existing Rules:** It adds a new section to chapter 388-71 WAC and amends WAC 388-71-0605.

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 does not impact small businesses.

RCW 34.05.328 does not apply to this rule adoption. The proposed amendments do not change the effect of the policy. Rules do meet the definition of "significant legislative rule," but the department is exempt from preparing a cost benefit analysis under RCW 34.05.328 (5)(b)(vii).

**Hearing Location:** Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on February 27, 2001, at 10:00 a.m.

**Assistance for Persons with Disabilities:** Contact Kelly Cooper by February 20, 2001, phone (360) 664-6094, TTY (360) 664-6178, e-mail coopekd@dshs.wa.gov.

**Submit Written Comments to:** Identify WAC Numbers, Kelly Cooper, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by February 27, 2001.

**Date of Intended Adoption:** No sooner than February 28, 2001.

January 19, 2001  
Charles Hunter, Director  
Administrative Services Division

**AMENDATORY SECTION** (Amending WSR 00-04-056, filed 1/28/00, effective 2/28/00)

**WAC 388-71-0605 Am I eligible for residential services?** (1) 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 deter-

mines your functional and financial eligibility for residential services under one of the following long-term care programs:

~~((1)) (a) Community options program entry system (COPEs), ((defined)) described in WAC ((388-515-1505)) 388-71-0435;~~

~~((2)) (b) Medicaid personal care funding (MPC), described in WAC 388-71-0440; or~~

~~((3)) (2) 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;)) if you meet eligibility requirements for general assistance ((unemployment under)) unemployable, described in 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)).~~

<del>((Residential care services</del>	COPEs	MPC	State-only programs
<del>Adult family homes</del>	*	*	*
<del>Adult residential care (ARC)</del>		*	*
<del>Enhanced adult residential care (EARC)</del>	*		
<del>Assisted living facilities (AL)</del>	*))		

~~(3) If you are on:~~

~~(a) MPC, you can receive services in adult family homes and adult residential care facilities.~~

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.

~~(b) COPEs, you can receive services in adult family homes, enhanced adult residential care facilities, and assisted living facilities.~~

~~(c) GAU, you can receive state-funded services in adult family homes and adult residential care facilities.~~

**NEW SECTION**

**WAC 388-71-0613 For what days will the department pay the residential care facility?** The department pays the residential care facility from the first day of service through the:

(1) Last day of service when the Medicaid resident dies in the facility; or

(2) Day of service before the day the Medicaid resident is discharged.

PROPOSED

**WSR 01-03-165****PROPOSED RULES****DEPARTMENT OF COMMUNITY,  
TRADE AND ECONOMIC DEVELOPMENT**

[Filed January 24, 2001, 11:46 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-22-030.

Title of Rule: Criteria to analyze project consistency.

Purpose: Criteria to analyze project consistency with comprehensive plans and development regulations adopted under chapter 36.70A RCW.

Statutory Authority for Adoption: RCW 36.70B.040.

Statute Being Implemented: RCW 36.70B.030 and 36.70B.040.

Summary: These rules are advisory in nature and provide guidelines for better integrating permit review with environmental review under chapter 43.21C RCW, analyzing project consistency, determining when there is a deficiency in the comprehensive plan or development regulation during project review that may require future amendments to the plan or regulations, appealing consistency, and denying a project based on consistency analysis.

Reasons Supporting Proposal: Local governments planning under the Growth Management Act need guidance on how to analyze project consistency when consistency with applicable regulations is not clear.

Name of Agency Personnel Responsible for Drafting: Heather Ballash, 906 Columbia Street S.W., Olympia, WA 98504, (360) 725-3046; and Implementation: Shane Hope, 906 Columbia Street S.W., Olympia, WA 98504, (360) 725-3055.

Name of Proponent: Office of Community Development, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: RCW 36.70B.040(5) authorizes the Department of Community, Trade and Economic Development to develop and adopt by rule criteria to assist local governments planning under RCW 36.70A.040 to analyze the consistency of project actions with adopted comprehensive plans and development regulations. These criteria are to be jointly developed with the Department of Ecology.

The rule provides guidelines for better integrating permit review with environmental review under chapter 43.21C RCW, analyzing project consistency, determining when there is a deficiency in the comprehensive plan or development regulations during project review that may require future amendments to the plan or regulations, appealing consistency, and denying a project based on consistency analysis. This rule is advisory in nature. It imposes no additional requirements for local governments in conducting project review.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule will impose no costs on business because it is procedural guidance to local governments and is advisory in nature.

RCW 34.05.328 does not apply to this rule adoption. The statute does not apply because this rule is procedural guidance that only relates to local government analysis of project consistency with adopted comprehensive plans and development regulations. RCW 34.05.028 (5)(a)(ii) specifically exempts rules relating only to internal governmental operations that are not subject to violation by a nongovernmental party. Only a local government can be found in error on appeal of its decision to approve or deny a project permit based on the project's consistency with the local government's own adopted comprehensive plan and/or development regulations.

Hearing Location: Office of Community Development, 906 Columbia Street S.W., Room 2, Olympia, WA 98504, on March 15, 2001, at 9:00 a.m. - 10:00 a.m.

Assistance for Persons with Disabilities: Contact Heather Ballash by March 9, 2001, TDD (360) 586-4224, or (360) 586-1557.

Submit Written Comments to: Heather Ballash, Office of Community Development, P.O. Box 48350, 906 Columbia Street S.W., Olympia, WA 98504, fax (360) 753-2950, e-mail heatherb@cted.wa.gov, by March 22, 2001.

Date of Intended Adoption: April 1, 2001.

January 22, 2001

Busse Nutley

Deputy Director

**Chapter 365-197 WAC****PROJECT CONSISTENCY****NEW SECTION**

**WAC 365-197-010 Purpose of a project consistency rule.** The Local Project Review Act (chapter 36.70B RCW) authorizes the department of community, trade, and economic development to develop and adopt by rule criteria to assist local governments planning under RCW 36.70A.040 to analyze the consistency of project actions. These criteria are to be jointly developed with the department of ecology (RCW 36.70B.040(5)).

A basic principle of the Growth Management Act (GMA) and the Local Project Review Act is that land use decisions made in adopting a comprehensive plan and development regulations under chapter 36.70A RCW should not be revisited during project review. When review of a project indicates that it is consistent with earlier land use decisions, that project should not be reevaluated or scrutinized with respect to whether those decisions were appropriate. Given the number of jurisdictions and agencies in the state, it is essential to establish a uniform framework for jurisdictions planning under the GMA to consider the consistency of a proposed project with the applicable development regulations or, in the absence of applicable regulations, the adopted comprehensive plan.

Consistency should be considered in the project review process by analyzing four factors found in applicable regulations or plans. The four factors are:

(1) The type of land use allowed;

(2) The level of development allowed, such as dwelling units per acre or other measures of intensity;

(3) Infrastructure, such as the adequacy of public facilities and services to serve the proposed project; and

(4) The characteristics of the proposed development, such as assessment for compliance with specific development regulations or standards. This uniform approach is based upon existing project review practices and should not place a "new" burden on applicants or local government. The intent is that consistency analysis be largely a matter of code checking for most projects, which are simple or routine. More complex projects may require more analysis of these factors, including any required studies. During project review, a question may be raised about whether a project is consistent with applicable regulations or plans after some initial analysis. A project's consistency with applicable development regulations may not initially be clear due to the complexity of the project or the regulations. For example, provision for infrastructure. In these cases, the criteria in the rule are intended to provide guidance to local government, applicants, and reviewers in conducting a consistency analysis. The criteria are not intended for every aspect of the project, only for those aspects where there are still questions of consistency after the initial review.

This rule is advisory in nature. As provided by RCW 36.70B.040, local governments may develop and apply their own procedures for determining project consistency.

#### NEW SECTION

**WAC 365-197-020 Definitions.** (1) "GMA" means the Growth Management Act, chapter 36.70A RCW and those statutes codified in other chapters of the Revised Code of Washington that were enacted or amended as part of chapter 17, Laws of 1990 1st ex. sess. and chapter 32, Laws of 1991 sp. sess.

(2) "GMA county/city" means a county or city that is planning under RCW 36.70A.040.

(3) "SEPA" means the State Environmental Policy Act of 1971, chapter 43.21C RCW, and the SEPA rules, chapter 197-11 WAC, as enacted or later amended.

#### NEW SECTION

**WAC 365-197-030 Integrated project review—GMA project consistency analysis and environmental review under SEPA.** The GMA is a fundamental building block of regulatory reform. The GMA should serve as an integrating framework for other land use-related laws. (ESHB 1724, Section 1.)

Integration of permit review and environmental review is intended to eliminate duplication in processes and requirements. The legislature recognized that consistency analysis and determinations of whether environmental impacts have been adequately addressed involve many of the same studies and analyses. SEPA substantive authority should not be used to condition or deny a permit for those impacts adequately addressed by the applicable development regulations.

The primary role of environmental review under SEPA at the project level is to focus on those environmental impacts

that have not been addressed by a GMA county's/city's development regulations and/or comprehensive plan adopted under chapter 36.70A RCW, or other local, state, and federal laws and regulations. SEPA substantive authority should only be used when the impacts cannot be adequately addressed by existing laws. As consistency analysis involves the application of development regulations and/or the comprehensive plan to a specific project, it will also help answer the question of whether a project's environmental impacts have been adequately addressed by the regulations and/or plan policies.

During project review, a GMA county/city may determine that some or all of the environmental impacts of the project have been addressed by its development regulations, comprehensive plan, or other applicable local, state, or federal laws or rules (RCW 43.21C.240 and WAC 197-11-158). The GMA county/city may make this determination during the course of environmental review and preparation of a threshold determination (including initial consistency review), if the impacts have been adequately addressed in the applicable regulations, plan policies, or other laws. "Adequately addressed" is defined as having identified the impacts and avoided, otherwise mitigated, or designated as acceptable the impacts associated with certain levels of service, land use designations, development standards, or other land use planning decisions required or allowed under the GMA. Once a determination has been made that an impact has been adequately addressed, the jurisdiction may not require additional mitigation for that impact under its SEPA substantive authority.

Thus, through the project review process:

(1) If the applicable regulations require studies that adequately analyze all of the project's specific probable adverse environmental impacts, additional studies under SEPA will not be necessary on those impacts;

(2) If the applicable regulations require measures that adequately address such environmental impacts, additional measures would likewise not be required under SEPA; and

(3) If the applicable regulations do not adequately analyze or address a proposal's specific probable adverse environmental impacts, SEPA provides the authority and procedures for additional review. (Note to RCW 43.21C.240.)

#### NEW SECTION

**WAC 365-197-040 Definition and review of project consistency.** (1) "Project consistency" refers to whether a project is consistent with adopted and applicable development regulations, or in their absence, comprehensive plans adopted under chapter 36.70A RCW.

(2) Project review for consistency is not subject to the provisions of this chapter for regulations or plans that:

(a) Do not exist or have not been adopted under chapter 36.70A RCW; or

(b) Do not apply to the particular project (e.g., no need to review compliance with floodplain ordinances if the site is not in a floodplain).

(3) The adopted and applicable development regulations/plans that apply to a project fall into four basic categories:

ries, which are defined in different levels of detail by GMA counties/cities:

- (a) Type of land use;
- (b) Level of development (dwelling units per acre or other measures of density);
- (c) Infrastructure to support the proposed project (public facilities and services); and
- (d) The other characteristics of the development (how the project is sited or otherwise built and operated from a growth management/land use and environmental perspective).

(4) Reviewing consistency in these four categories will be largely a code-checking exercise for relatively simple or routine projects in GMA counties/cities with specific development regulations, while more complex projects or projects that affect critical areas may require more analysis.

#### NEW SECTION

**WAC 365-197-050 Criteria to analyze consistency of project actions.** (1) In considering the four basic categories of project consistency, it may not be clear on initial review whether a project is consistent with a particular applicable development regulation, or in its absence, the comprehensive plan. The following criteria, in the form of questions, are intended to assist cities/counties, applicants, and reviewers in analyzing for consistency.

(a) **Type of land use:** Is the project's proposed land use within the range of allowable uses identified for this site in the comprehensive plan/development regulation? This would include uses that may be allowed under certain circumstances if they satisfy approval criteria, for example, planned unit developments, conditional uses, or special uses.

(b) **Level of development:** Is the project's proposed land use within the range of densities, including dwelling units per acre or other measures of intensity, as defined in the comprehensive plan/development regulations? Other measures of intensity may include, but are not limited to, such measures as square footage of nonresidential development, number of employees, or floor area ratio.

(c) **Infrastructure:** Are the system-wide public facilities and services necessary to serve the development available? To make this decision, the local jurisdiction should ask:

(i) Is the system-wide infrastructure sufficient to serve the development? (If yes, no need to ask the next question.)

(ii) Have any system improvements needed for the proposed development and site:

(A) Been identified as necessary to support development in the comprehensive plan; and

(B) Had provision for funding in the comprehensive plan (e.g., capital facilities plan, utilities element, transportation improvement plan)? Alternatively, can the applicant demonstrate capacity, e.g., through a certificate of concurrency process? (If yes, no need to ask the next question.)

(iii) Will the proposed project use more capacity than the usage or assumptions on which the capital facilities plan, utilities element, or transportation improvement plan were based, or will the project cause current service levels to fall

below level of service standards identified in the comprehensive plan? (If yes, does the applicant want to pay for the improvements or allow the GMA county/city to docket the issue for future plan amendment?)

(d) **Characteristics of development:** Does the proposed project:

(i) Meet or fall within the range of numerical standards that apply? (Examples of numerical standards may include, but are not limited to, number of dwelling units per acre, floor area ratio, building setbacks, building height, lot size, lot coverage, minimum width and depth for new lots, parking requirements, and density/intensity bonuses or incentives. In applying some of these standards, some overlap may occur with the analysis for level of development, i.e., units per acre and floor area ratio.)

(ii) Promote or not substantially conflict with narrative standards that apply? (Examples of narrative standards include performance standards, engineering or design criteria, methods for determining compliance such as monitoring or contingency plans, and mandatory policies or criteria.) Analysis of consistency with narrative standards may be contingent upon preparation, completion, and approval of required studies, plans, determinations, or monitoring (e.g., delineation of critical areas, mitigation plans, etc.).

(e) For purposes of this section, "system-wide" infrastructure means those public services or facilities that may be needed to serve a geographic area greater than the specific site on which the project is located. For example, sewer systems, water systems, or transportation systems that serve a geographic area beyond the project site. Public services or facilities that are not system-wide and may be needed on or near a proposed project (such as drainage facilities, utility connections or transportation improvements to primarily serve the project) should be addressed through analysis of the characteristics of development.

(2) Analysis of project consistency should take into consideration regulatory standards and policies that provide a method to reconcile a project's proposed type of development, level of development, infrastructure needs, or characteristics of development with development regulation and/or comprehensive plan requirements. Such provisions include, but are not limited to, variance and conditional use procedures, innovative land use techniques, developer funding for infrastructure construction or improvements, and project-specific mitigation measures.

(3) If the information needed to analyze project consistency does not exist in the applicable development regulations or comprehensive plan, the county or city should determine whether a deficiency exists pursuant to WAC 365-197-060.

#### NEW SECTION

**WAC 365-197-060 Definition of plan "deficiency" identified in project review and how such deficiencies should be docketed.** (1) Project review may continue under SEPA and other applicable laws, if, during project review, a GMA county/city identifies a deficiency in the applicable development regulations or the policies in the comprehen-



sive plan. The identified deficiency shall be docketed for possible future development regulation or plan amendments. The applicant may proceed as provided in subsection (4)(c) of this section. The project review process shall not be used as a comprehensive planning process. Docketed deficiencies shall be considered through the normal amendment process for comprehensive plans or development regulations.

(2) "Deficiency" in a development regulation or comprehensive plan refers to the absence of required or potentially desirable<sup>1</sup> contents of a comprehensive plan or development regulation. It does not refer to whether a development regulation adequately addresses a project's probable specific adverse environmental impacts, which the permitting agency could mitigate in the normal project review process. Some project-specific impacts could be identified that the agency will need to or prefer to address at the project level rather than in the comprehensive plan or development regulations.

For purposes of docketing, use of the term "deficiency" shall not mean that a comprehensive plan or development regulation adopted by a county or city under chapter 36.70A RCW is invalid or out of compliance with chapter 36.70A RCW. Docketing is intended to allow and encourage GMA counties/cities to improve their plans and regulations as a result of experience in reviewing projects, but without stopping review of the project that may have disclosed the "deficiency."

(3) A project should not be found to be inconsistent with applicable regulations or the plan if the inconsistency is the result of a deficiency of one of the four criteria for project consistency. The deficiency should be docketed for possible future regulation or plan amendments, and the project proponent can proceed with either of the options provided in subsection (4) of this section.

(4) If all of the information to analyze consistency does not exist in the regulations or plan, the absent policy or regulatory information should be docketed for possible future regulation or plan amendments. At this point the applicant may:

(a) Await docketing and decision on the proposed amendment to address the deficiency before proceeding with the project review process; or

(b) Proceed with the project review process under SEPA and other applicable laws.

## NEW SECTION

**WAC 365-197-070 Appeals of consistency.** (1) When and how appeals of consistency may fit into a GMA county's/city's appeal process depends upon the individual jurisdiction's project review and appeals process. Nothing in this section requires documentation or dictates a GMA county's/city's procedures for considering consistency.

(2) Fundamental land use planning decisions made in comprehensive plans and development regulations should not be revisited at the project level. During project review, the local government or any subsequent reviewing body shall not reexamine alternatives to or hear appeals on the planning decisions specified in subsection (3)(a) through (c) of this section, except for issues of code interpretation. The planning decisions in subsection (3)(a) through (c) of this section are a subset of the four basic categories of criteria for analyzing

project consistency under WAC 365-197-050 (1)(a) through (d). The planning decisions in subsection (3)(a) through (c) of this section are identified in RCW 36.70B.030(2) as decisions that are determinative and cannot be reexamined at the project level if they have been addressed in the development regulations and/or comprehensive plan. As project review includes environmental review, the local government or subsequent reviewing body shall not reexamine or hear appeals on how the environmental impacts of those planning decisions in subsection (3)(a) through (c) of this section were addressed under chapter 43.21C RCW. However, if environmental information is required to analyze project consistency under subsection (3)(a) through (c) of this section and that information is not available, the decision may still be challenged under SEPA.

(3) During project review, a GMA county/city or any subsequent reviewing body shall determine whether the items listed in (a) through (c) of this subsection are defined in the development regulations applicable to the proposed project or, in the absence of applicable regulations, the adopted comprehensive plan under chapter 36.70A RCW. At a minimum, such applicable regulations or plans shall be determinative of the:

(a) Type of land use permitted at the site, including uses that may be allowed under certain circumstances, such as planned unit developments and conditional and special uses, if the criteria for their approval have been satisfied;

(b) Density of residential development in urban growth areas, including densities that may be allowed under certain circumstances, such as planned unit developments and density bonuses;

(c) Availability and adequacy of public facilities:

(i) That are needed to serve the proposed development;

(ii) That are identified in the comprehensive plan; and

(iii) For which the plan or development regulations identify the probable sources of funding, as required by chapter 36.70A RCW.

(4) Upon a determination of consistency of the project with the planning decisions in subsection (3)(a) through (c) of this section, no further analysis of the project with respect to those items will be required. However, because the planning decisions in subsection (3)(a) through (c) of this section do not include all of the project review criteria in WAC 365-197-050 (1)(a) through (d), further analysis may be required to apply the remaining criteria listed in WAC 365-197-050 (1)(a) through (d) that are not addressed in the planning decisions in subsection (3)(a) through (c) of this section. For example, analysis of residential densities outside the urban growth area or the character of development may still need to be addressed.

(5) For purposes of this section, "code interpretation" includes the correct application of the applicable regulations or plan to the project. As part of its project review process, each GMA county/city must adopt procedures for obtaining a code interpretation pursuant to RCW 36.70B.030(3) and 36.70B.110(11). A GMA county/city may provide a formal or informal process for code interpretation. The GMA county or city or subsequent reviewing body may consider comments on the application of regulations or the plan to the project without requiring a formal code interpretation.

(6) As provided above, agencies should not be revisiting fundamental land use planning decisions made in comprehensive plans and development regulations at the project level. However, nothing in this chapter limits the authority of a permitting agency to approve, condition, or deny a project as provided in its development regulations adopted under chapter 36.70A RCW and in its SEPA substantive policies adopted under RCW 43.21C.060. An agency may still use its authority under adopted development regulations or SEPA substantive policies to condition a project. For example, an agency may condition a project to reduce neighborhood traffic or traffic impacts, which could have the effect of reducing the level of development otherwise permitted by zoning ordinance.

**NEW SECTION**

**WAC 365-197-080 An agency may deny a project based upon consistency analysis.** (1) An agency has the authority to deny a project if it:

- (a) Is inconsistent and does not comply with the applicable development regulations, or in their absence, the adopted comprehensive plan;
- (b) Will result in significant adverse environmental impacts which cannot be mitigated per RCW 43.21C.060 and WAC 197-11-660; or
- (c) Does not comply with other local, state, or federal law and rules, and the local jurisdiction has the authority to deny based upon these other laws and rules.

(2) This rule is not intended to modify any criteria developed by a GMA county/city for denying a project.

Name of Agency Personnel Responsible for Drafting: Chris Parsons, Department of Community, Trade and Economic Development, P.O. Box 48300, Olympia, WA 98504, (360) 725-3058; Implementation and Enforcement: Shane Hope, Department of Community, Trade and Economic Development, P.O. Box 48300, Olympia, WA 98504, (360) 725-3055.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of the proposed rule is to correct an inaccurate reference in WAC 365-195-900(1), changing the reference from RCW 36.70A.215 to 36.70A.130. There will be no substantive effect on the rule.

Proposal Changes the Following Existing Rules: Corrects a typographical error.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There is no substantive impact of the proposed rule; the only change is to correct a typographical error.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Community, Trade and Economic Development is not named agency in this section of law.

Hearing Location: Department of Community, Trade and Economic Development, Conference Room 1, 906 Columbia Street S.W., Olympia, WA 98504, on March 15, 2001, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Chris Parsons by March 10, 2001, TDD (360) 586-4224, or (360) 586-1557.

Submit Written Comments to: Chris Parsons, Senior Planner, Department of Community, Trade and Economic Development, P.O. Box 48350, Olympia, WA 98504-8350, fax (360) 725-3058, e-mail [chrisp@cted.wa.gov](mailto:chrisp@cted.wa.gov).

Date of Intended Adoption: March 19, 2001.

January 22, 2001

Busse Nutley

Deputy Director

**WSR 01-03-166**

**PROPOSED RULES**

**DEPARTMENT OF COMMUNITY,  
TRADE AND ECONOMIC DEVELOPMENT**

[Filed January 24, 2001, 11:50 a.m.]

Original Notice.

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

Title of Rule: State of Washington's Growth Management Act "Procedural Criteria for Adopting Comprehensive Plans and Development Regulations" - Part Nine, Best Available Science.

Purpose: The purpose of the proposed rule is to correct an inaccurate reference in WAC 365-195-900(1), changing the reference from RCW 36.70A.215 to 36.70A.130. There will be no substantive effect on the rule.

Statutory Authority for Adoption: RCW 36.70A.190 (4)(b).

Statute Being Implemented: RCW 36.70A.172.

Summary: Currently, WAC 365-195-900(1) erroneously references RCW 36.70A.215 instead of RCW 36.70A.130.

Reasons Supporting Proposal: Potential confusion may exist when a WAC rule contains an inaccurate reference to a statute.

**AMENDATORY SECTION** (Amending WSR 00-16-064, filed 7/27/00, effective 8/27/00)

**WAC 365-195-900 Background and purpose.** (1) Counties and cities planning under RCW 36.70A.040 are subject to continuing review and evaluation of their comprehensive land use plan and development regulations. Every five years they must take action to review and revise their plans and regulations, if needed, to ensure they comply with the requirements of the Growth Management Act. RCW ((36.70A.215)) 36.70A.130.

(2) Counties and cities must include the "best available science" when developing policies and development regulations to protect the functions and values of critical areas and must give "special consideration" to conservation or protection measures necessary to preserve or enhance anadromous fisheries. RCW 36.70A.172(1). The rules in WAC 365-195-900 through 365-195-925 are intended to assist counties and cities in identifying and including the best available science

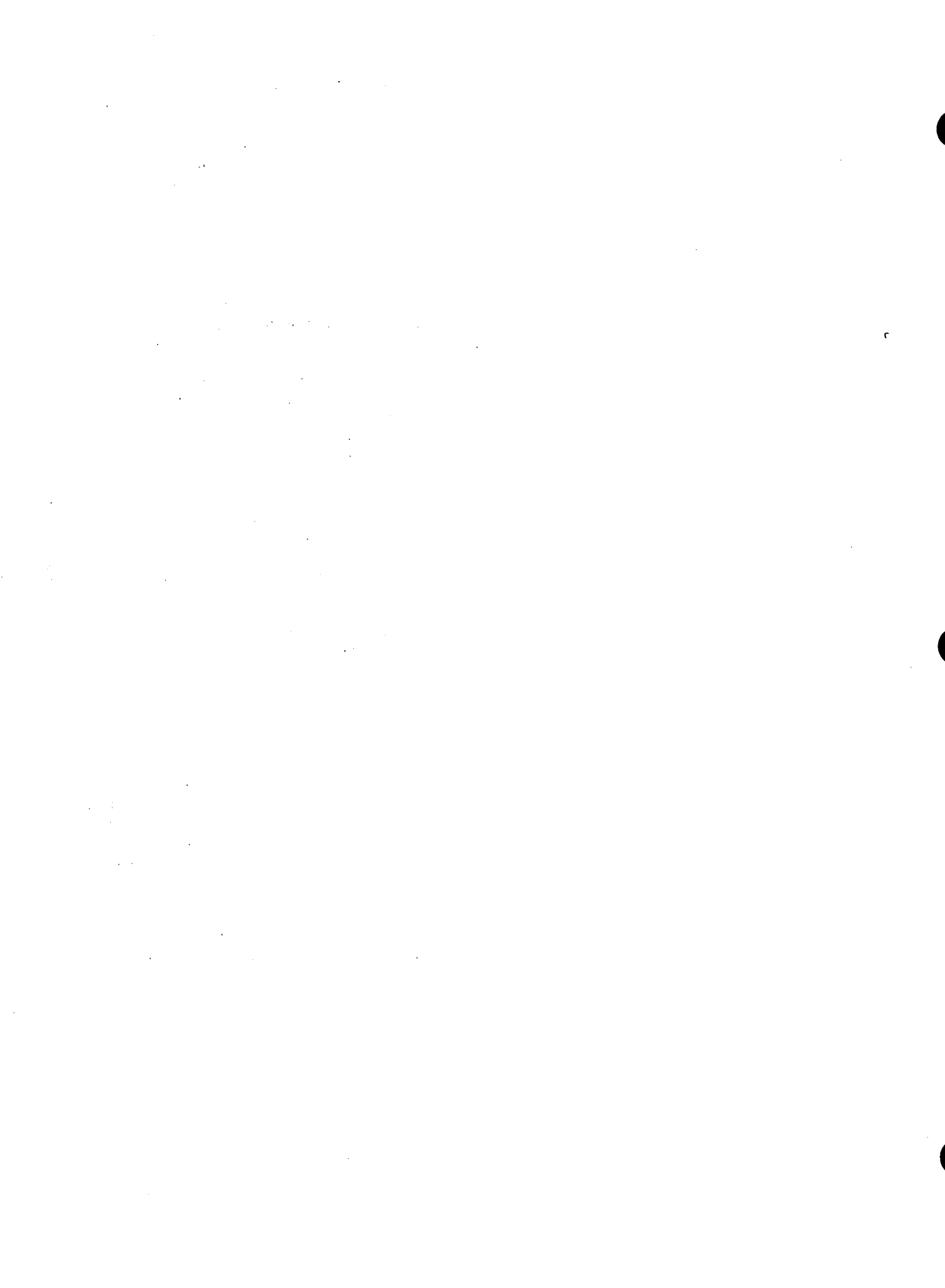
PROPOSED

in newly adopted policies and regulations and in this periodic review and evaluation and in demonstrating they have met their statutory obligations under RCW 36.70A.172(1).

(3) The inclusion of the best available science in the development of critical areas policies and regulations is especially important to salmon recovery efforts, and to other decision-making affecting threatened or endangered species.

(4) These rules are adopted under the authority of RCW 36.70A.190 (4)(b) which requires the department of community, trade, and economic development (department) to adopt rules to assist counties and cities to comply with the goals and requirements of the Growth Management Act.

PROPOSED



**WSR 01-01-012**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)  
[Filed December 6, 2000, 3:27 p.m.]

Date of Adoption: December 6, 2000.

Purpose: The department is establishing a new chapter for rules pertaining to physician-related services, and in order to avoid duplication, is repealing existing rules on the same subject. The new rules meet the clear-writing mandates in the Governor's Executive Order 97-02, and ensure that current policy and practice are reflected in rule, new chapter 388-531 WAC.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-86-011, 388-86-055, 388-86-095, 388-86-110, 388-86-0961, 388-87-075, and 388-87-095.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Adopted under notice filed as WSR 00-12-080 on June 6, 2000.

Changes Other than Editing from Proposed to Adopted Version: (Deleted words shown as ~~strikeout~~ and added words shown as underline.)

**WAC 388-531-0050:**

"**Allowed charges**" means the maximum amount reimbursed for any procedure that is allowed by MAA.

"**Covered service**" means a service that is within the scope of the eligible client's medical care program, ~~and listed in specific fee for service billing instructions.~~ subject to the limitations in this chapter and other published WAC.

"**Experimental**" means... (2) Has been approved by the FDA or other requisite government body, if such approval is required.

"**Fee-for-service**" means the general payment method MAA uses to reimburse providers for covered medical services provided to medical assistance clients ~~for whom when~~ those services are not covered under MAA's healthy options program or children's health insurance (CHIP) programs.

"**Investigational**" means a term to describe a procedure, or course of treatment, which lacks sufficient scientific evidence of benefit for a particular condition. A service is not "investigational" if the service:...

(2) Is supported by ~~a preponderance~~ an overall balance of objective scientific evidence, in which the potential risks and potential benefits are examined...

**WAC 388-531-0100:**

(2) MAA evaluates a request for any service that is listed as noncovered in WAC 388-531-0150 under the provisions of WAC 388-501-0165 ~~which relate to noncovered services.~~

(5) MAA covers the following physician-related services, subject to the conditions in subsection (1), ~~and (2) (3), and (4)~~ of this section:...

(5)(l) ~~Ophthalmology care~~ Vision-related services per chapter 388-544 WAC;

**WAC 388-531-0150:**

(1)(i): ~~Orthoptic eye training therapy;~~ Vision-related services listed as non-covered in chapter 388-544 WAC;

**WAC 388-531-0250 (1)(k):**

(iv) Optometry, for vision-related ~~optometric~~ services;

or

(v) Podiatry, ~~for podiatric~~ services.

**WAC 388-531-0450 (2)(a):** The client is critically ill and the physician is engaged in work directly related to the individual clients care, whether that time is spent at the immediate ~~beside~~ bedside, or elsewhere on the floor;

**WAC 388-531-0550:**

(2) ~~In making~~ The determination of whether a service is experimental and/or investigational ~~and therefore, not a covered service, MAA considers the following:~~ is subject to a case-by-case review under the provisions of WAC 388-501-0165 which relate to medical necessity. MAA also considers the following:

(2)(b) Whether evidence indicates the service or treatment is more likely than not to be as beneficial as existing conventional treatment alternatives for the treatment of the condition in question;

(2)(e) ~~Any relevant, specific aspects of the condition; (the subsections following this, ((d), (e), (f), (g), (h), and (i)) are renumbered, respectively, as (c), (d), (e), (f), (g), and (h).)~~

(2)(d) (c) Whether the service or treatment is generally used or generally accepted for treatment of ~~for~~ the condition in the state of Washington United States.

(3) MAA applies consistently across clients with the same medical condition and health status, the criteria to determine whether a service is experimental. A service that is not experimental for one client with a particular medical condition is not determined to be experimental for another enrollee with the same medical condition and similar health status. A service that is experimental for one client with a particular medical condition is not necessarily experimental for another, and subsequent individual determinations must consider any new or additional evidence not considered in prior determinations.

(4) MAA does not determine a service or treatment to be experimental or investigational solely because it is under clinical investigation, when there is sufficient evidence in peer-reviewed medical literature to draw conclusions, and the evidence indicates the service or treatment will probably be of greater overall benefit to the client in question ~~and to others similarly situated~~, than another generally available service.

**WAC 388-531-0750:**

**Inpatient hospital** ~~inpatient~~ **physician-related** services.

**WAC 388-531-0800:**

(1) MAA reimburses a providers for laboratory services only when ~~they are~~:

(a) ~~The provider is~~ Are certified according to Title XVII of the Social Security Act (Medicare), if required; and

(a) ~~The provider has~~ Have a clinical laboratory improvement amendment (CLIA) certificate and identification number.

(11) An independent laboratory must bill MAA directly. MAA does not reimburse a medical practitioner for services referred to or performed by an independent laboratory.

PERMANENT

**WAC 388-531-0950:**

(1)(a) Two calls per month for routine medical conditions for a client residing in a nursing facility;

(1)(b) One call per noninstitutionalized client, per day, ~~per~~ for an individual physician....

(5)(b) The injectable drug used is from office stock and purchased by the provider from...

(9)(a) MAA does not pay separately reimburse for the administration of intra-arterial and intravenous therapeutic or diagnostic injections provided in conjunction with intravenous infusion therapy services. MAA does pay reimburse separately for the administration of these injections when they are provided on the same day as an E&M service. MAA does not pay separately an administration fee for injectables when both E&M and infusion therapy services are provided on the same day. MAA reimburses separately for the drug(s).

(9)(b) MAA does not reimburse pay separately for subcutaneous or intramuscular administration of antibiotic injections provided on the same day as an E&M service. If the injection is the only service provided, MAA ~~covers the injection service~~ pays an administration fee. ...

(9)(d) The provider must submit a manufacturer's invoice ~~and~~ to document the name, strength, and dosage on the claim form when billing MAA for the following drugs:

(i) Classified drugs that cost where the billed charge is over one thousand, one hundred dollars; and

(ii) Unclassified drugs that cost where the billed charge is over one hundred dollars; and This does not apply to unclassified antineoplastic drugs.

~~(i) Unclassified antineoplastic drugs that cost over five hundred dollars.~~

(10)(b) When a single client is expected to use all the doses in a multiple dose vial, the provider must may bill MAA the total number of doses in a multiple dose vial the vial at the time the first dose from the vial is used. ~~(e)~~ When remaining doses of a the multiple dose vial are injected at subsequent times, MAA reimburses the injection service (administration fee) only.

(c) When a multiple dose vial is used for more than one client, the provider must bill the total number of doses provided to each client out of the multiple dose vial.

(d) MAA covers both the injection and the antigen, the antigen preparation, and an administration fee.

(11) MAA reimburses for chemotherapy drugs;

(11)(a) ~~MAA reimburses for chemotherapy drugs~~ Administered in the physician's office only when:...

(11)(b) ~~MAA establishes a~~ At established maximum allowable fees based on ~~its~~ the Medicare pricing of the estimated acquisition cost (EAC) or maximum allowable cost (MAC), when generics are available;

(11)(c) For unclassified antineoplastic drugs, the provider must submit the following information on the claim form:

(i) The name of the drug used;

(j) The dosage and strength used; and

(i) The national drug code (NCD).

(12) Notwithstanding the provisions of this section, MAA reserves the option of determining drug pricing for any particular drug based on the best evidence available to MAA, or other good and sufficient reasons (e.g., fairness/equity, budget), regarding the actual cost, after discounts and promotions, paid to typical providers nationally or in Washington state.

(13) MAA may request an invoice as necessary.

**WAC 388-531-1000:**

**Ophthalmological Ophthalmic and vision-related physician-related services.**

~~(1) MAA covers ophthalmological services furnished by a provider as listed in WAC 388-531-0250, and subject to the limitations in this section and other published WAC.~~

~~(1) MAA requires expedited prior authorization for strabismus surgery for client eighteen years of age and older.~~

~~(1) MAA does not cover any of the following:~~

~~(a) Orthoptics and visual training therapy;~~

~~(b) Two pairs of eyeglasses;~~

~~(c) E&M services billed in combination with eye exam procedure codes;~~

~~(d) Radial Keratotomy or other surgery for refractive purposes;~~

~~(e) Refractive prescriptions over two years old; of~~

~~(f) Group screening for eyeglasses (except for EPSDT).~~

Refer to chapter 388-544 WAC for ophthalmic and vision-related services.

**WAC 388-531-1050:**

**Osteopathic manipulative therapy treatment.**

**WAC 388-531-1100:**

(1) MAA covers medical services provided to Medicaid eligible clients who are temporarily located outside the state, subject to the provisions of this chapter and WAC 388-501-0180.

**WAC 388-531-1400:**

(5) MAA reimburses only one psychiatric diagnostic interview examination in a calendar year unless a significant change in the client's circumstances renders ~~such a~~ an additional evaluation medically necessary.

**WAC 388-531-1550:**

(11) MAA reimburses hysterectomy without prior authorization in either of the following circumstances: (a) the client has been diagnosed with cancer(s) of the female reproductive organs; and/or (b) the client is forty-six years of age or older.

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 38, Amended 0, Repealed 7.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 38, Amended 0, Repealed 7.

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 38, Amended 0, Repealed 7.

Effective Date of Rule: Thirty-one days after filing.

December 6, 2000

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

## Chapter 388-531 WAC

### PHYSICIAN-RELATED SERVICES

#### NEW SECTION

**WAC 388-531-0050 Physician-related services definitions.** The following definitions and abbreviations and those found in WAC 388-500-0005, apply to this chapter. Defined words and phrases are bolded the first time they are used in the text.

**"Acquisition cost"** means the cost of an item excluding shipping, handling, and any applicable taxes.

**"Acute care"** means care provided for clients who are not medically stable. These clients require frequent monitoring by a health care professional in order to maintain their health status (WAC 248-27-015).

**"Acute physical medicine and rehabilitation (PM&R)"** means a comprehensive inpatient and rehabilitative program coordinated by a multidisciplinary team at an MAA-approved rehabilitation facility. The program provides twenty-four hour specialized nursing services and an intense level of specialized therapy (speech, physical, and occupational) for a diagnostic category for which the client shows significant potential for functional improvement (see WAC 388-550-2501).

**"Add-on procedure(s)"** means secondary procedure(s) that are performed in addition to another procedure.

**"Admitting diagnosis"** means the medical condition responsible for a hospital admission, as defined by ICD-9-M diagnostic code.

**"Advanced registered nurse practitioner (ARNP)"** means a registered nurse prepared in a formal educational program to assume an expanded health services provider role in accordance with WAC 246-840-300 and 246-840-305.

**"Aging and adult services administration (AASA)"** means the administration that administers directly or contracts for long-term care services, including but not limited to nursing facility care and home and community services. See WAC 388-15-202.

**"Allowed charges"** means the maximum amount reimbursed for any procedure that is allowed by MAA.

**"Anesthesia technical advisory group (ATAG)"** means an advisory group representing anesthesiologists who are affected by the implementation of the anesthesiology fee schedule.

**"Base anesthesia units (BAU)"** means a number of anesthesia units assigned to a surgical procedure that includes the usual pre-operative, intra-operative, and post-operative

visits. This includes the administration of fluids and/or blood incident to the anesthesia care, and interpretation of noninvasive monitoring by the anesthesiologist.

**"Bundled services"** means services integral to the major procedure that are included in the fee for the major procedure. Bundled services are not reimbursed separately.

**"Bundled supplies"** means supplies which are considered to be included in the practice expense RVU of the medical or surgical service of which they are an integral part.

**"By report (BR)"** means a method of reimbursement in which MAA determines the amount it will pay for a service that is not included in MAA's published fee schedules. MAA may request the provider to submit a "report" describing the nature, extent, time, effort, and/or equipment necessary to deliver the service.

**"Call"** means a face-to-face encounter between the client and the provider resulting in the provision of services to the client.

**"Cast material maximum allowable fee"** means a reimbursement amount based on the average cost among suppliers for one roll of cast material.

**"Certified registered nurse anesthetist (CRNA)"** means an advanced registered nurse practitioner (ARNP) with formal training in anesthesia who meets all state and national criteria for certification. The American Association of Nurse Anesthetists specifies the National Certification and scope of practice.

**"Children's health insurance plan (CHIP),"** see chapter 388-542 WAC.

**"Clinical Laboratory Improvement Amendment (CLIA)"** means regulations from the U.S. Department of Health and Human Services that require all laboratory testing sites to have either a CLIA registration or a CLIA certificate of waiver in order to legally perform testing anywhere in the U.S.

**"Conversion factors"** means dollar amounts MAA uses to calculate the maximum allowable fee for physician-related services.

**"Covered service"** means a service that is within the scope of the eligible client's medical care program, subject to the limitations in this chapter and other published WAC.

**"CPT,"** see "current procedural terminology."

**"Critical care services"** means physician services for the care of critically ill or injured clients. A critical illness or injury acutely impairs one or more vital organ systems such that the client's survival is jeopardized. Critical care is given in a critical care area, such as the coronary care unit, intensive care unit, respiratory care unit, or the emergency care facility.

**"Current procedural terminology (CPT)"** means a systematic listing of descriptive terms and identifying codes for reporting medical services, procedures, and interventions performed by physicians and other practitioners who provide physician-related services. CPT is copyrighted and published annually by the American Medical Association (AMA).

**"Diagnosis code"** means a set of numeric or alphanumeric characters assigned by the ICD-9-CM, or successor

document, as a shorthand symbol to represent the nature of a disease.

**"Emergency medical condition(s)"** means a medical condition(s) that manifests itself by acute symptoms of sufficient severity so that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

**"Emergency services"** means medical services required by and provided to a patient experiencing an emergency medical condition.

**"Estimated acquisition cost (EAC)"** means the department's best estimate of the price providers generally and currently pay for drugs and supplies.

**"Evaluation and management (E&M) codes"** means procedure codes which categorize physician services by type of service, place of service, and patient status.

**"Expedited prior authorization"** means the process of obtaining authorization that must be used for selected services, in which providers use a set of numeric codes to indicate to MAA which acceptable indications, conditions, diagnoses, and/or criteria are applicable to a particular request for services.

**"Experimental"** means a term to describe a procedure, or course of treatment, which lacks sufficient scientific evidence of safety and effectiveness. See WAC 388-531-0500. A service is not "experimental" if the service:

- (1) Is generally accepted by the medical profession as effective and appropriate; and
- (2) Has been approved by the FDA or other requisite government body, if such approval is required.

**"Fee-for-service"** means the general payment method MAA uses to reimburse providers for covered medical services provided to medical assistance clients when those services are not covered under MAA's healthy options program or children's health insurance program (CHIP) programs.

**"Flat fee"** means the maximum allowable fee established by MAA for a service or item that does not have a relative value unit (RVU) or has an RVU that is not appropriate.

**"Geographic practice cost index (GPCI)"** as defined by Medicare, means a Medicare adjustment factor that includes local geographic area estimates of how hard the provider has to work (work effort), what the practice expenses are, and what malpractice costs are. The GPCI reflects one-fourth the difference between the area average and the national average.

**"Global surgery reimbursement,"** see WAC 388-531-1700.

**"HCPCS Level II"** means a coding system established by the HCFA to define services and procedures not included in CPT.

**"Health Care Financing Administration (HCFA)"** means the agency within the federal Department of Health and Human Services (DHHS) with oversight responsibility for the Medicare and Medicaid programs.

**"Health Care Financing Administration Common Procedure Coding System (HCPCS)"** means the name

used for the Health Care Financing Administration codes made up of CPT and HCPCS level II codes.

**"Health care team"** means a group of health care providers involved in the care of a client.

**"Hospice"** means a medically directed, interdisciplinary program of palliative services which is provided under arrangement with a Title XVIII Washington licensed and certified Washington state hospice for terminally ill clients and the clients' families.

**"ICD-9-CM,"** see "International Classification of Diseases, 9th Revision, Clinical Modification."

**"Informed consent"** means that an individual consents to a procedure after the provider who obtained a properly completed consent form has done all of the following:

- (1) Disclosed and discussed the client's diagnosis; and
- (2) Offered the client an opportunity to ask questions about the procedure and to request information in writing; and
- (3) Given the client a copy of the consent form; and
- (4) Communicated effectively using any language interpretation or special communication device necessary per 42 C.F.R. Chapter IV 441.257; and
- (5) Given the client oral information about all of the following:
  - (a) The client's right to not obtain the procedure, including potential risks, benefits, and the consequences of not obtaining the procedure; and
  - (b) Alternatives to the procedure including potential risks, benefits, and consequences; and
  - (c) The procedure itself, including potential risks, benefits, and consequences.

**"Inpatient hospital admission"** means an acute hospital stay for longer than twenty-four hours when the medical care record shows the need for inpatient care beyond twenty-four hours. All admissions are considered inpatient hospital admissions, and are paid as such, regardless of the length of stay, in the following circumstances:

- (1) The death of a client;
- (2) Obstetrical delivery;
- (3) Initial care of a newborn; or
- (4) Transfer to another acute care facility.

**"International Classification of diseases, 9th Revision, Clinical Modification (ICD-9-CM)"** means the systematic listing that transforms verbal descriptions of diseases, injuries, conditions, and procedures into numerical or alpha-numerical designations (coding).

**"Investigational"** means a term to describe a procedure, or course of treatment, which lacks sufficient scientific evidence of benefit for a particular condition. A service is not "investigational" if the service:

- (1) Is generally accepted by the medical professional as effective and appropriate for the condition in question; or
- (2) Is supported by an overall balance of objective scientific evidence, in which the potential risks and potential benefits are examined, demonstrating the proposed service to be of greater overall benefit to the client in the particular circumstance than another, generally available service.

**"Life support"** means mechanical systems, such as ventilators or heart-lung respirators, which are used to supple-



ment or take the place of the normal autonomic functions of a living person.

**"Limitation extension"** means a process for requesting and approving reimbursement for covered services whose proposed quantity, frequency, or intensity exceeds that which MAA routinely reimburses. Limitation extensions require prior authorization.

**"Maximum allowable fee"** means the maximum dollar amount that MAA will reimburse a provider for specific services, supplies, and equipment.

**"Medically necessary,"** see WAC 388-500-0005.

**"Medicare Physician Fee Schedule Data Base (MPFSDB)"** means the official HCFA publication of the Medicare policies and RVUs for the RBRVS reimbursement program.

**"Medicare Program Fee Schedule for Physician Services (MPFSPS)"** means the official HCFA publication of the Medicare fees for physician services.

**"Medicare Clinical Diagnostic Laboratory Fee Schedule"** means the fee schedule used by Medicare to reimburse for clinical diagnostic laboratory procedures in the state of Washington.

**"Mentally incompetent"** means a client who has been declared mentally incompetent by a federal, state, or local court.

**"Modifier"** means a two-digit alphabetic and/or numeric identifier that is added to the procedure code to indicate the type of service performed. The modifier provides the means by which the reporting physician can describe or indicate that a performed service or procedure has been altered by some specific circumstance but not changed in its definition or code. The modifier can affect payment or be used for information only. Modifiers are listed in fee schedules.

**"Outpatient"** means a client who is receiving medical services in other than an inpatient hospital setting.

**"Peer-reviewed medical literature"** means medical literature published in professional journals that submit articles for review by experts who are not part of the editorial staff. It does not include publications or supplements to publications primarily intended as marketing material for pharmaceutical, medical supplies, medical devices, health service providers, or insurance carriers.

**"Physician care plan"** means a written plan of medically necessary treatment that is established by and periodically reviewed and signed by a physician. The plan describes the medically necessary services to be provided by a home health agency, a hospice agency, or a nursing facility.

**"Physician standby"** means physician attendance without direct face-to-face client contact and which does not involve provision of care or services.

**"Physician's current procedural terminology,"** see "CPT, current procedural terminology."

**"PM&R,"** see acute physical medicine and rehabilitation.

**"Podiatric service"** means the diagnosis and medical, surgical, mechanical, manipulative, and electrical treatments of ailments of the foot and ankle.

**"Pound indicator (#)"** means a symbol (#) indicating a CPT procedure code listed in MAA fee schedules that is not routinely covered.

**"Preventive"** means medical practices that include counseling, anticipatory guidance, risk factor reduction interventions, and the ordering of appropriate laboratory and diagnostic procedures intended to help a client avoid or reduce the risk or incidence of illness or injury.

**"Prior authorization"** means a process by which clients or providers must request and receive MAA approval for certain medical services, equipment, or supplies, based on medical necessity, before the services are provided to clients, as a precondition for provider reimbursement. Expedited prior authorization and limitation extension are forms of prior authorization.

**"Professional component"** means the part of a procedure or service that relies on the provider's professional skill or training, or the part of that reimbursement that recognizes the provider's cognitive skill.

**"Prognosis"** means the probable outcome of a client's illness, including the likelihood of improvement or deterioration in the severity of the illness, the likelihood for recurrence, and the client's probable life span as a result of the illness.

**"Prolonged services"** means face-to-face client services furnished by a provider, either in the inpatient or outpatient setting, which involve time beyond what is usual for such services. The time counted toward payment for prolonged E&M services includes only face-to-face contact between the provider and the client, even if the service was not continuous.

**"Provider,"** see WAC 388-500-0005.

**"Radioallergosorbent test" or "RAST"** means a blood test for specific allergies.

**"RBRVS,"** see resource based relative value scale.

**"RVU,"** see relative value unit.

**"Reimbursement"** means payment to a provider or other MAA-approved entity who bills according to the provisions in WAC 388-502-0100.

**"Reimbursement steering committee (RSC)"** means an interagency work group that establishes and maintains RBRVS physician fee schedules and other payment and purchasing systems utilized by the health care authority, MAA, and department of labor and industries.

**"Relative value guide (RVG)"** means a system used by the American Society of Anesthesiologists for determining base anesthesia units (BAUs).

**"Relative value unit (RVU)"** means a unit which is based on the resources required to perform an individual service or intervention.

**"Resource based relative value scale (RBRVS)"** means a scale that measures the relative value of a medical service or intervention, based on the amount of physician resources involved.

**"RBRVS RVU"** means a measure of the resources required to perform an individual service or intervention. It is set by Medicare based on three components - physician

work, practice cost, and malpractice expense. Practice cost varies depending on the place of service.

"**RSC RVU**" means a unit established by the RSC for a procedure that does not have an established RBRVS RVU or has an RBRVS RVU deemed by the RSC as not appropriate for the service.

"**Stat laboratory charges**" means charges by a laboratory for performing tests immediately. "Stat" is an abbreviation for the Latin word "statim," meaning immediately.

"**State unique procedure codes**" means procedure codes established by the RSC to define services or procedures not contained in CPT or HCPCS level II.

"**Sterile tray**" means a tray containing instruments and supplies needed for certain surgical procedures normally done in an office setting. For reimbursement purposes, tray components are considered by HCFA to be nonroutine and reimbursed separately.

"**Technical advisory group (TAG)**" means an advisory group with representatives from professional organizations whose members are affected by implementation of RBRVS physician fee schedules and other payment and purchasing systems utilized by the health care authority, MAA, and department of labor and industries.

"**Technical component**" means the part of a procedure or service that relates to the equipment set-up and technician's time, or the part of the procedure and service reimbursement that recognizes the equipment cost and technician time.

## NEW SECTION

**WAC 388-531-0100 Scope of coverage for physician-related services—General and administrative.** (1) The medical assistance administration (MAA) covers medical services, equipment, and supplies when they are both:

(a) Within the scope of an eligible client's medical care program. Refer to chapter 388-529 WAC; and

(b) **Medically necessary** as defined in 388-500-0005.

(2) MAA evaluates a request for any service that is listed as noncovered in WAC 388-531-0150 under the provisions of WAC 388-501-0165.

(3) MAA evaluates a request for a service that is in a covered category, but has been determined to be experimental or investigational under WAC 388-531-0550, under the provisions of WAC 388-501-0165 which related to medical necessity.

(4) MAA evaluates requests for covered services that are subject to limitations or other restrictions and approves such services beyond those limitations or restrictions when medically necessary, under the standards for covered services in WAC 388-501-0165.

(5) MAA covers the following physician-related services, subject to the conditions in subsection (1), (3), and (4) of this section:

(a) Allergen immunotherapy services;

(b) Anesthesia services;

(c) Dialysis and end stage renal disease services (refer to chapter 388-540 WAC);

(d) Emergency physician services;

(e) ENT (ear, nose, and throat) related services;

(f) Early and periodic screening, diagnosis, and treatment (EPSDT) services (refer to WAC 388-534-0100);

(g) Gender dysphoria surgery and related procedures, treatment, prosthetics, or supplies when recommended after a multidisciplinary evaluation including at least urology, endocrinology, and psychiatry;

(h) Family planning services (refer to chapter 388-532 WAC);

(i) **Hospital** inpatient services (refer to chapter 388-550 WAC);

(j) Maternity care, delivery, and newborn care services (refer to chapter 388-533 WAC);

(k) Office visits;

(l) Vision-related services, per chapter 388-544 WAC;

(m) Osteopathic treatment services;

(n) Pathology and laboratory services;

(o) Physiatry and other rehabilitation services (refer to chapter 388-550 WAC);

(p) Podiatry services;

(q) Primary care services;

(r) Psychiatric services, provided by a psychiatrist;

(s) Pulmonary and respiratory services;

(t) Radiology services;

(u) Surgical services;

(v) Surgery to correct defects from birth, illness, or trauma, or for mastectomy reconstruction; and

(w) Other **outpatient** physician services.

(6) MAA covers physical examinations for MAA clients only when the physical examination is one or more of the following:

(a) A screening exam covered by the EPSDT program (see WAC 388-534-0100);

(b) An annual exam for clients of the division of developmental disabilities; or

(c) A screening pap smear, mammogram, or prostate exam.

(7) By providing covered services to a client eligible for a medical care program, a provider who has signed an agreement with MAA accepts MAA's rules and fees as outlined in the agreement, which includes federal and state law and regulations, billing instructions, and MAA issuances.

## NEW SECTION

**WAC 388-531-0150 Noncovered physician-related services—General and administrative.** (1) Except as provided in WAC 388-531-0100 and subsection (2) of this section, MAA does not cover the following:

(a) Acupuncture, massage, or massage therapy;

(b) Any service specifically excluded by statute;

(c) Care, testing, or treatment of infertility, frigidity, or impotency. This includes procedures for donor ovum, sperm, womb, and reversal of vasectomy or tubal ligation;

(d) Cosmetic treatment or surgery, except for medically necessary reconstructive surgery to correct defects attributable to trauma, birth defect, or illness;

(e) Experimental or investigational services, procedures, treatments, devices, drugs, or application of associated ser-

vices, except when the individual factors of an individual client's condition justify a determination of medical necessity under WAC 388-501-0165;

- (f) Hair transplantation;
- (g) Marital counseling or sex therapy;
- (h) More costly services when MAA determines that less costly, equally effective services are available;
- (i) Vision-related services listed as noncovered in chapter 388-544 WAC;
- (j) Payment for body parts, including organs, tissues, bones and blood, except as allowed in WAC 388-531-1750;
- (k) Physician-supplied medication, except those drugs administered by the physician in the physician's office;
- (l) Physical examinations or routine checkups, except as provided in WAC 388-531-0100;

(m) Routine foot care. This does not include clients who have a medical condition that affects the feet, such as diabetes or arteriosclerosis obliterans. Routine foot care includes, but is not limited to:

- (i) Treatment of mycotic disease;
- (ii) Removal of warts, corns, or calluses;
- (iii) Trimming of nails and other hygiene care;
- (iv) Treatment of flat feet;
- (n) Except as provided in WAC 388-531-1600, weight reduction and control services, procedures, treatments, devices, drugs, products, or the application of associated services.

(o) Nonmedical equipment; and

(p) Nonemergent admissions and associated services to out-of-state hospitals or noncontracted hospitals in contract areas.

(2) MAA covers excluded services listed in (1) of this subsection if those services are mandated under and provided to a client who is eligible for one of the following:

- (a) The EPSDT program;
- (b) A Medicaid program for qualified **Medicare** beneficiaries (QMBs); or
- (c) A waiver program.

#### NEW SECTION

**WAC 388-531-0200 Physician-related services requiring prior authorization.** (1) MAA requires **prior authorization** for certain services. Prior authorization includes **expedited prior authorization (EPA)** and **limitation extension (LE)**. See WAC 388-501-0165.

(2) The EPA process is designed to eliminate the need for telephone prior authorization for selected admissions and procedures.

(a) The provider must create an authorization number using the process explained in MAA's physician-related billing instructions.

(b) Upon request, the provider must provide supporting clinical documentation to MAA showing how the authorization number was created.

(c) Selected nonemergent admissions to contract hospitals require EPA. These are identified in MAA billing instructions.

(d) Procedures requiring expedited prior authorization include, but are not limited to, the following:

- (i) Bladder repair;
- (ii) Hysterectomy for clients age forty-five and younger, except with a diagnosis of cancer(s) of the female reproductive system;
- (iii) Outpatient magnetic resonance imaging (MRI) and magnetic resonance angiography (MRA);
- (iv) Reduction mammoplasties/mastectomy for gynecomastia; and
- (v) Strabismus surgery for clients eighteen years of age and older.

(3) MAA evaluates new technologies under the procedures in WAC 388-531-0550. These require prior authorization.

(4) Prior authorization is required for the following:

- (a) Abdominoplasty;
- (b) All inpatient hospital stays for **acute physical medicine and rehabilitation (PM&R)**;
- (c) Cochlear implants, which also:
  - (i) For coverage, must be performed in an ambulatory surgery center (ASC) or an inpatient or outpatient hospital facility; and
  - (ii) For reimbursement, must have the invoice attached to the claim;

(d) Diagnosis and treatment of eating disorders for clients twenty-one years of age and older;

(e) Osteopathic manipulative therapy in excess of MAA's published limits;

(f) Panniculectomy;

(g) Surgical procedures related to weight loss or reduction; and

(h) Vagus nerve stimulator insertion, which also:
 

- (i) For coverage, must be performed in an inpatient or outpatient hospital facility; and
- (ii) For reimbursement, must have the invoice attached to the claim.

(5) MAA may require a second opinion and/or consultation before authorizing any elective surgical procedure.

(6) Children six year of age and younger do not require authorization for hospitalization.

#### NEW SECTION

**WAC 388-531-0250 Who can provide and bill for physician-related services.** (1) The following enrolled providers are eligible to provide and bill for physician-related medical services which they provide to eligible clients:

- (a) Advanced registered nurse practitioners (ARNP);
- (b) Federally qualified health centers (FQHCs);
- (c) Health departments;
- (d) Hospitals currently licensed by the department of health;
- (e) Independent (outside) laboratories CLIA certified to perform tests. See WAC 388-531-0800;
- (f) Licensed radiology facilities;
- (g) Medicare-certified ambulatory surgery centers;
- (h) Medicare-certified rural health clinics;

(i) Providers who have a signed agreement with MAA to provide screening services to eligible persons in the EPSDT program;

(j) Registered nurse first assistants (RNFA); and

(k) Persons currently licensed by the state of Washington department of health to practice any of the following:

(i) Dentistry (refer to chapter 388-535 WAC);

(ii) Medicine and osteopathy;

(iii) Nursing;

(iv) Optometry; or

(v) Podiatry.

(2) MAA does not reimburse for services performed by any of the following practitioners:

(a) Acupuncturists;

(b) Christian Science practitioners or theological healers;

(c) Counselors;

(d) Herbalists;

(e) Homeopaths;

(f) Massage therapists as licensed by the Washington state department of health;

(g) Naturopaths;

(h) Sanipractors;

(i) Those who have a master's degree in social work (MSW), except those employed by an FQHC;

(j) Any other licensed or unlicensed practitioners not otherwise specifically provided for in WAC 388-502-0010; or

(k) Any other licensed practitioners providing services which the practitioner is not:

(i) Licensed to provide; and

(ii) Trained to provide.

(3) MAA reimburses practitioners listed in subsection (2) of this section for physician-related services if those services are mandated by, and provided to, clients who are eligible for one of the following:

(a) The EPSDT program;

(b) A Medicaid program for qualified Medicare beneficiaries (QMB); or

(c) A waiver program.

## NEW SECTION

**WAC 388-531-0300 Anesthesia providers and covered physician-related services.** MAA bases coverage of anesthesia services on Medicare policies and the following rules:

(1) MAA reimburses providers for covered anesthesia services performed by:

(a) Anesthesiologists;

(b) **Certified registered nurse anesthetists (CRNAs);**

(c) Oral surgeons with a special agreement with MAA to provide anesthesia services; and

(d) Other providers who have a special agreement with MAA to provide anesthesia services.

(2) MAA covers and reimburses anesthesia services for children and noncooperative clients in those situations where the medically necessary procedure cannot be performed if the client is not anesthetized. A statement of the client-specific reasons why the procedure could not be performed without

specific anesthesia services must be kept in the client's medical record. Examples of such procedures include:

(a) Computerized tomography (CT);

(b) Dental procedures;

(c) Electroconvulsive therapy; and

(d) Magnetic resonance imaging (MRI).

(3) MAA covers anesthesia services provided for any of the following:

(a) Dental restorations and/or extractions;

(b) Maternity per subsection (9) of this section. See WAC 388-531-1550 for information about sterilization/hysterectomy anesthesia;

(c) Pain management per subsection (5) of this section;

(d) Radiological services as listed in WAC 388-531-1450; and

(e) Surgical procedures.

(4) For each client, the anesthesiologist provider must do all of the following:

(a) Perform a pre-anesthetic examination and evaluation;

(b) Prescribe the anesthesia plan;

(c) Personally participate in the most demanding aspects of the anesthesia plan, including, if applicable, induction and emergence;

(d) Ensure that any procedures in the anesthesia plan that the provider does not perform, are performed by a qualified individual as defined in the program operating instructions;

(e) At frequent intervals, monitor the course of anesthesia during administration;

(f) Remain physically present and available for immediate diagnosis and treatment of emergencies; and

(g) Provide indicated post anesthesia care.

(5) MAA does not allow the anaesthesiologist provider to:

(a) Direct more than four anesthesia services concurrently; and

(b) Perform any other services while directing the single or concurrent services, other than attending to medical emergencies and other limited services as allowed by Medicare instructions.

(6) MAA requires the anesthesiologist provider to document in the client's medical record that the medical direction requirements were met.

(7) General anesthesia:

(a) When a provider performs multiple operative procedures for the same client at the same time, MAA reimburses the base anesthesia units (BAU) for the major procedure only.

(b) MAA does not reimburse the attending surgeon for anesthesia services.

(c) When more than one anesthesia provider is present on a case, MAA reimburses as follows:

(i) The supervisory anesthesiologist and certified registered nurse anesthetist (CRNA) each receive fifty percent of the allowed amount.

(ii) For anesthesia provided by a team, MAA limits reimbursement to one hundred percent of the total allowed reimbursement for the service.

(8) Pain management:

(a) MAA pays CRNAs or anesthesiologists for pain management services.

(b) MAA allows two postoperative or pain management epidurals per client, per hospital stay plus the two associated E&M fees for pain management.

(9) Maternity anesthesia:

(a) To determine total time for obstetric epidural anesthesia during normal labor and delivery and c-sections, time begins with insertion and ends with removal for a maximum of six hours. "Delivery" includes labor for single or multiple births, and/or cesarean section delivery.

(b) MAA does not apply the six-hour limit for anesthesia to procedures performed as a result of post-delivery complications.

(c) See WAC 388-531-1550 for information on anesthesia services during a delivery with sterilization.

(d) See chapter 388-533 WAC for more information about maternity-related services.

### NEW SECTION

**WAC 388-531-0350 Anesthesia services—Reimbursement for physician-related services.** (1) MAA reimburses anesthesia services on the basis of base anesthesia units (BAU) plus time.

(2) MAA calculates payment for anesthesia by adding the BAU to the time units and multiplying that sum by the conversion factor. The formula used in the calculation is:  $(BAU \times fifteen) + time \times (conversion\ factor\ divided\ by\ fifteen) = reimbursement$ .

(3) MAA obtains BAU values from the relative value guide (RVG), and updates them annually. MAA and/or the anesthesia technical advisory group (ATAG) members establish the base units for procedures for which anesthesia is appropriate but do not have BAUs established by RVSP and are not defined as add-on.

(4) MAA determines a budget neutral anesthesia conversion factor by:

(a) Determining the BAUs, time units, and expenditures for a **base period** for the provided procedure. Then,

(b) Adding the latest BAU RVSP to the time units for the base period to obtain an estimate of the new time unit for the procedure. Then,

(c) Multiplying the time units obtained in (b) of this subsection for the new period by a conversion factor to obtain estimated expenditures. Then,

(d) Comparing the expenditures obtained in (c) of this subsection with base period expenditure levels obtained in (a) of this subsection. Then,

(e) Adjusting the dollar amount for the anesthesia conversion factor and the projected time units at the new BAUs equals the allocated amount determined in (a) of this subsection.

(5) MAA calculates anesthesia time units as follows:

(a) One minute equals one unit.

(b) The total time is calculated to the next whole minute.

(c) Anesthesia time begins when the anesthesiologist, surgeon, or CRNA begins physically preparing the client for the induction of anesthesia; this must take place in the operating room or its equivalent. When there is a break in continuous anesthesia care, blocks of time may be added together as

long as there is continuous monitoring. Examples of this include, but are not limited to, the following:

(i) The time a client spends in an anesthesia induction room; or

(ii) The time a client spends under the care of an operating room nurse during a surgical procedure.

(d) Anesthesia time ends when the anesthesiologist, surgeon, or CRNA is no longer in constant attendance (i.e., when the client can be safely placed under post-operative supervision).

(6) MAA changes anesthesia **conversion factors** if the legislature grants a vendor rate increase, or other increase, and if the effective date of that increase is not the same as MAA's annual update.

(7) If the legislatively authorized vendor rate increase or other increase becomes effective at the same time as MAA's annual update, MAA applies the increase after calculating the budget-neutral conversion factor.

(8) When more than one surgical procedure is performed at the same operative session, MAA uses the BAU of the major procedure to determine anesthesia **allowed charges**. MAA reimburses add-on procedures as defined by CPT only for the time spent on the add-on procedure that is in addition to the time spent on the major procedure.

### NEW SECTION

**WAC 388-531-0400 Client responsibility for reimbursement for physician-related services.** Clients may be responsible to reimburse the provider, as described under WAC 388-501-0100, for services that are not covered under the client's medical care program. Clients whose care is provided under CHIP may be responsible for copayments as outlined in chapter 388-542 WAC. Also, see WAC 388-502-0160, Billing the client.

### NEW SECTION

**WAC 388-531-0450 Critical care—Physician-related services.** (1) MAA reimburses the following physicians for critical care services:

(a) The attending physician who assumes responsibility for the care of a client during a life-threatening episode;

(b) More than one physician if the services provided involve multiple organ systems; or

(c) Only one physician for services provided in the emergency room.

(2) MAA reimburses preoperative and postoperative critical care in addition to a **global surgical package** when all the following apply:

(a) The client is critically ill and the physician is engaged in work directly related to the individual client's care, whether that time is spent at the immediate bedside or elsewhere on the floor;

(b) The critical injury or illness acutely impairs one or more vital organ systems such that the client's survival is jeopardized;

(c) The critical care is unrelated to the specific anatomic injury or general surgical procedure performed; and

(d) The provider uses any necessary, appropriate modifier when billing MAA.

(3) MAA limits payment for critical care services to a maximum of three hours per day, per client.

(4) MAA does not pay separately for certain services performed during a critical care period when the services are provided on a per hour basis. These services include, but are not limited to, the following:

- (a) Analysis of information data stored in computers (e.g., ECG, blood pressure, hematologic data);
- (b) Blood draw for a specimen;
- (c) Blood gases;
- (d) Cardiac output measurement;
- (e) Chest X-rays;
- (f) Gastric intubation;
- (g) Pulse oximetry;
- (h) Temporary transcutaneous pacing;
- (i) Vascular access procedures; and
- (j) Ventilator management.

**NEW SECTION**

**WAC 388-531-0500 Emergency physician-related services.** (1) MAA reimburses for E&M services provided in the hospital emergency department to clients who arrive for immediate medical attention.

(2) MAA reimburses emergency physician services only when provided by physicians assigned to the hospital emergency department or the physicians on call to cover the hospital emergency department.

(3) MAA pays a provider who is called back to the emergency room at a different time on the same day to attend a return visit the same client. When this results in multiple claims on the same day, the time of each encounter must be clearly indicated on the claim.

(4) MAA does not pay emergency room physicians for **hospital admission** charges or additional service charges.

**NEW SECTION**

**WAC 388-531-0550 Experimental and investigational services.** (1) When MAA makes a determination as to whether a proposed service is experimental or investigational, MAA follows the procedures in this section. The policies and procedures and any criteria for making decisions are available upon request.

(2) The determination of whether a service is experimental and/or investigational is subject to a case-by-case review under the provisions of WAC 388-501-0165 which relate to medical necessity. MAA also considers the following:

(a) Evidence in **peer-reviewed medical literature**, as defined in WAC 388-531-0050, and pre-clinical and clinical data reported to the National Institute of Health and/or the National Cancer Institute, concerning the probability of the service maintaining or significantly improving the enrollee's length or quality of life, or ability to function, and whether the benefits of the service or treatment are outweighed by the risks of death or serious complications;

(b) Whether evidence indicates the service or treatment is more likely than not to be as beneficial as existing conventional treatment alternatives for the treatment of the condition in question;

(c) Whether the service or treatment is generally used or generally accepted for treatment of the condition in the United States;

(d) Whether the service or treatment is under continuing scientific testing and research;

(e) Whether the service or treatment shows a demonstrable benefit for the condition;

(f) Whether the service or treatment is safe and efficacious;

(g) Whether the service or treatment will result in greater benefits for the condition than another generally available service; and

(h) If approval is required by a regulating agency, such as the Food and Drug Administration, whether such approval has been given before the date of service.

(3) MAA applies consistently across clients with the same medical condition and health status, the criteria to determine whether a service is experimental. A service or treatment that is not experimental for one client with a particular medical condition is not determined to be experimental for another enrollee with the same medical condition and health status. A service that is experimental for one client with a particular medical condition is not necessarily experimental for another, and subsequent individual determinations must consider any new or additional evidence not considered in prior determinations.

(4) MAA does not determine a service or treatment to be experimental or investigational solely because it is under clinical investigation when there is sufficient evidence in peer-reviewed medical literature to draw conclusions, and the evidence indicates the service or treatment will probably be of greater overall benefit to the client in question than another generally available service.

(5) All determinations that a proposed service or treatment is "experimental" or "investigation" are subject to the review and approval of a physician who is:

(a) Licensed under chapter 18.57 RCW or an osteopath licensed under chapter 18.71 RCW;

(b) Designated by MAA's medical director to issue such approvals; and

(c) Available to consult with the client's treating physician by telephone.

**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 388-531-0600 HIV/AIDS Counseling and testing as physician-related services.** MAA covers one pre- and one post-HIV/AIDS counseling/testing session per client each time the client is tested for HIV/AIDS.

PERMANENT

NEW SECTION

**WAC 388-531-0650 Hospital physician-related services not requiring authorization when provided in MAA-approved centers of excellence or hospitals authorized to provide the specific services.** MAA covers the following services without prior authorization when provided in MAA-approved centers of excellence. MAA issues periodic publications listing centers of excellence. These services include the following:

- (1) All transplant procedures specified in WAC 388-550-1900;
- (2) Chronic pain management services, including outpatient evaluation and inpatient treatment, as described under WAC 388-550-2400. See also WAC 388-531-0700;
- (3) Sleep studies including but not limited to polysomnograms for clients one year of age and older. MAA allows sleep studies only in outpatient hospital settings as described under WAC 388-550-6350. See also WAC 388-531-1500;
- (4) Diabetes education, in a DOH-approved facility, per WAC 388-550-6300; and
- (5) MAA-approved structured weight loss programs. See also WAC 388-531-1600.

NEW SECTION

**WAC 388-531-0700 Inpatient chronic pain management physician-related services.** (1) MAA covers inpatient chronic pain management services only when the services are obtained through an MAA-approved chronic pain facility.

- (2) A client qualifies for inpatient chronic pain management services when all of the following apply:
  - (a) The client has had chronic pain for at least three months, that has not improved with conservative treatment, including tests and therapies;
  - (b) At least six months have passed since a previous surgical procedure was done in relation to the pain problem; and
  - (c) Clients with active substance abuse must have completed a detoxification program, if appropriate, and must be free from drugs or alcohol for six months.
- (3) For chronic pain management, MAA limits coverage to only one inpatient hospital stay per client's lifetime, up to a maximum of twenty-one days.
- (4) MAA reimburses for only the chronic pain management services and procedures that are listed in the fee schedule.

NEW SECTION

**WAC 388-531-0750 Inpatient hospital physician-related services.** (1) MAA separately reimburses the attending provider for inpatient hospital professional services rendered by the attending provider during the surgical follow-up period only if the services are performed for an emergency condition or a diagnosis that is unrelated to the inpatient stay.

- (2) MAA reimburses for only one inpatient hospital call per client, per day for the same or related diagnoses. If a call is included in the **global surgery reimbursement**, MAA does not reimburse separately.

- (3) MAA reimburses a hospital admission related to a planned surgery through the global fee for surgery.

NEW SECTION

**WAC 388-531-0800 Laboratory and pathology physician-related services.** (1) MAA reimburses providers for laboratory services only when:

- (a) The provider is certified according to Title XVII of the Social Security Act (Medicare), if required; and
- (b) The provider has a clinical laboratory improvement amendment (CLIA) certificate and identification number.

(2) MAA includes a handling, packaging, and mailing fee in the reimbursement for lab tests and does not reimburse these separately.

(3) MAA reimburses only one blood drawing fee per client, per day. MAA allows additional reimbursement for an independent laboratory when it goes to a nursing facility or a private home to obtain a specimen.

(4) MAA reimburses only one catheterization for collection of a urine specimen per client, per day.

(5) MAA reimburses automated multichannel tests done alone or as a group, as follows:

(a) The provider must bill a panel if all individual tests are performed. If not all tests are performed, the provider must bill individual tests.

(b) If the provider bills one automated multichannel test, MAA reimburses the test at the individual procedure code rate, or the internal code maximum allowable fee, whichever is lower.

(c) Tests may be performed in a facility that owns or leases automated multichannel testing equipment. The facility may be any of the following:

- (i) A clinic;
- (ii) A hospital laboratory;
- (iii) An independent laboratory; or
- (iv) A physician's office.

(6) MAA allows a **STAT** fee in addition to the maximum allowable fee when a laboratory procedure is performed **STAT**.

(a) MAA reimburses **STAT** charges for only those procedures identified by the clinical laboratory advisory council as appropriate to be performed **STAT**.

(b) Tests generated in the emergency room do not automatically justify a **STAT** order, the physician must specifically order the tests as **STAT**.

(c) Refer to the fee schedule for a list of **STAT** procedures.

(7) MAA reimburses for drug screen charges only when medically necessary and when ordered by a physician as part of a total medical evaluation.

(8) MAA does not reimburse for drug screens for clients in the division of alcohol and substance abuse (DASA)-contracted methadone treatment programs. These are reimbursed through a contract issued by DASA.

(9) MAA does not cover for drug screens to monitor any of the following:

- (a) Program compliance in either a residential or outpatient drug or alcohol treatment program;

(b) Drug or alcohol abuse by a client when the screen is performed by a provider in private practice setting; or

(c) Suspected drug use by clients in a residential setting, such as a group home.

(10) MAA may require a drug or alcohol screen in order to determine a client's suitability for a specific test.

(11) An independent laboratory must bill MAA directly. MAA does not reimburse a medical practitioner for services referred to or performed by an independent laboratory.

**NEW SECTION**

**WAC 388-531-0850 Laboratory and pathology physician-related services reimbursement.** (1) MAA pays for clinical diagnostic laboratory procedures based on the **Medicare clinical diagnostic laboratory fee schedule (MCDLF)** for the state of Washington. MAA obtains information used to update fee schedule regulations from Program Memorandum and Regional Medicare Letters as published by HCFA.

(2) MAA updates budget-neutral fees each July by:

(a) Determining the units of service and expenditures for a base period. Then,

(b) Determining in total the ratio of current MAA fees to existing Medicare fees. Then,

(c) Determining new MAA fees by adjusting the new Medicare fee by the ratio. Then,

(d) Multiplying the units of service by the new MAA fee to obtain total estimated expenditures. Then,

(e) Comparing the expenditures in subsection (14)(d) of this section to the base period expenditures. Then,

(f) Adjusting the new ratio until estimated expenditures equals the base period amount.

(3) MAA calculates maximum allowable fees (MAF) by:

(a) Calculating fees using methodology described in subsection (2) of this section for procedure codes that have an applicable Medicare clinical diagnostic laboratory fee (MCDLF).

(b) Establishing RSC fees for procedure codes that have no applicable MCDLF.

(c) Establishing maximum allowable fees, or "flat fees" for procedure codes that have no applicable MCDLF or RSC fees. MAA updates flat fee reimbursement only when authorized by the legislature.

(d) MAA reimbursement for clinical laboratory diagnostic procedures does not exceed the regional MCDLF schedule.

(4) MAA increases fees if the legislature grants a vendor rate increase or other increase. If the legislatively authorized increase becomes effective at the same time as MAA's annual update, MAA applies the increase after calculating budget-neutral fees.

**NEW SECTION**

**WAC 388-531-0900 Neonatal intensive care unit (NICU) physician-related services.** (1) MAA pays the physician directing the care of a neonate or infant in an NICU, for NICU services.

(2) NICU services include, but are not limited to, any of the following:

(a) Patient management;

(b) Monitoring and treatment of the neonate, including nutritional, metabolic and hematologic maintenance;

(c) Parent counseling; and

(d) Personal direct supervision by the **health care team** of activities required for diagnosis, treatment, and supportive care of the patient.

(3) Payment for NICU care begins with the date of admission to the NICU.

(4) MAA reimburses a provider for only one NICU service per client, per day.

(5) A provider may bill for NICU services in addition to **prolonged services** and newborn resuscitation when the provider is present at the delivery.

**NEW SECTION**

**WAC 388-531-0950 Office and other outpatient physician-related services.** (1) MAA reimburses for the following:

(a) Two calls per month for routine medical conditions for a client residing in a nursing facility; and

(b) One call per noninstitutionalized client, per day, for an individual physician, except for valid call-backs to the emergency room per WAC 388-531-0500.

(2) The provider must provide justification based on medical necessity at the time of billing for visits in excess of subsection (1) of this section.

(3) See physician billing instructions for procedures that are included in the office call and cannot be billed separately.

(4) Using selected diagnosis codes, MAA reimburses the provider at the appropriate level of physician office call for history and physical procedures in conjunction with dental surgery services performed in an outpatient setting.

(5) MAA may reimburse providers for injection procedures and/or injectable drug products only when:

(a) The injectable drug is administered during an office visit; and

(b) The injectable drug used is from office stock and purchased by the provider from a pharmacist or drug manufacturer as described in WAC 388-530-1200.

(6) MAA does not reimburse a prescribing provider for a drug when a pharmacist dispenses the drug.

(7) MAA does not reimburse the prescribing provider for an immunization when the immunization material is received from the department of health; MAA does reimburse an administrative fee. If the immunization is given in a health department and is the only service provided, MAA reimburses a minimum E&M service.

(8) MAA reimburses immunizations at **estimated acquisition costs (EAC)** when the immunizations are not part of the vaccine for children program. MAA reimburses a separate administration fee for these immunizations. Covered immunizations are listed in the fee schedule.

(9) MAA reimburses therapeutic and diagnostic injections subject to certain limitations as follows:

PERMANENT



(a) MAA does not pay separately for the administration of intra-arterial and intravenous therapeutic or diagnostic injections provided in conjunction with intravenous infusion therapy services. MAA does pay separately for the administration of these injections when they are provided on the same day as an E&M service. MAA does not pay separately an administrative fee for injectables when both E&M and infusion therapy services are provided on the same day. MAA reimburses separately for the drug(s).

(b) MAA does not pay separately for subcutaneous or intramuscular administration of antibiotic injections provided on the same day as an E&M service. If the injection is the only service provided, MAA pays an administrative fee. MAA reimburses separately for the drug.

(c) MAA reimburses injectable drugs at **acquisition cost**. The provider must document the name, strength, and dosage of the drug and retain that information in the client's file. The provider must provide an invoice when requested by MAA. This subsection does not apply to drugs used for chemotherapy; see subsection (11) in this section for chemotherapy drugs.

(d) The provider must submit a manufacturer's invoice to document the name, strength, and dosage on the claim form when billing MAA for the following drugs:

(i) Classified drugs where the billed charge to MAA is over one thousand, one hundred dollars; and

(ii) Unclassified drugs where the billed charge to MAA is over one hundred dollars. This does not apply to unclassified antineoplastic drugs.

(10) MAA reimburses allergen immunotherapy only as follows:

(a) Antigen/antigen preparation codes are reimbursed per dose.

(b) When a single client is expected to use all the doses in a multiple dose vial, the provider may bill the total number of doses in the vial at the time the first dose from the vial is used. When remaining doses of a multiple dose vial are injected at subsequent times, MAA reimburses the injection service (administration fee) only.

(c) When a multiple dose vial is used for more than one client, the provider must bill the total number of doses provided to each client out of the multiple dose vial.

(d) MAA covers the antigen, the antigen preparation, and an administration fee.

(e) MAA reimburses a provider separately for an E&M service if there is a diagnosis for conditions unrelated to allergen immunotherapy.

(f) MAA reimburses for **RAST** testing when the physician has written documentation in the client's record indicating that previous skin testing failed and was negative.

(11) MAA reimburses for chemotherapy drugs:

(a) Administered in the physician's office only when:

(i) The physician personally supervises the E&M services furnished by office medical staff; and

(ii) The medical record reflects the physician's active participation in or management of course of treatment.

(b) At established maximum allowable fees that are based on the Medicare pricing method for calculating the

estimated acquisition cost (EAC), or maximum allowable cost (MAC) when generics are available;

(c) For unclassified antineoplastic drugs, the provider must submit the following information on the claim form:

(i) The name of the drug used;

(ii) The dosage and strength used; and

(iii) The national drug code (NCD).

(12) Notwithstanding the provisions of this section, MAA reserves the option of determining drug pricing for any particular drug based on the best evidence available to MAA, or other good and sufficient reasons (e.g., fairness/equity, budget), regarding the actual cost, after discounts and promotions, paid by typical providers nationally or in Washington state.

(13) MAA may request an invoice as necessary.

#### NEW SECTION

**WAC 388-531-1000 Ophthalmic physician-related services.** Refer to chapter 388-544 WAC for ophthalmic and vision-related services.

#### NEW SECTION

**WAC 388-531-1050 Osteopathic manipulative treatment.** (1) MAA reimburses osteopathic manipulative therapy (OMT) only when OMT is provided by an osteopathic physician licensed under chapter 18.71 RCW.

(2) MAA reimburses OMT only when the provider bills using the appropriate CPT codes that involve the number of body regions involved.

(3) MAA allows an osteopathic physician to bill MAA for an E&M service in addition to the OMT when one of the following apply:

(a) The physician diagnoses the condition requiring manipulative therapy and provides it during the same visit;

(b) The existing related diagnosis or condition fails to respond to manipulative therapy or the condition significantly changes or intensifies, requiring E&M services beyond those included in the manipulation codes; or

(c) The physician treats the client during the same encounter for an unrelated condition that does not require manipulative therapy.

(4) MAA limits reimbursement for manipulations to ten per client, per calendar year. Reimbursement for each manipulation includes a brief evaluation as well as the manipulation.

(5) MAA does not reimburse for physical therapy services performed by osteopathic physicians.

#### NEW SECTION

**WAC 388-531-1100 Out-of-state physician services.**

(1) MAA covers medical services provided to eligible clients who are temporarily located outside the state, subject to the provisions of this chapter and WAC 388-501-0180.

(2) Out-of-state border areas as described under WAC 388-501-0175 are not subject to out-of-state limitations. MAA considers physicians in border areas as providers in the state of Washington.

(3) In order to be eligible for reimbursement, out-of-state physicians must meet all criteria for, and must comply with all procedures required of in-state physicians, in addition to other requirements of this chapter.

#### NEW SECTION

**WAC 388-531-1150 Physician care plan oversight services.** (1) MAA covers **physician care plan oversight services** only when:

(a) A physician provides the service; and  
(b) The client is served by a home health agency, a nursing facility, or a **hospice**.

(2) MAA reimburses for physician care plan oversight services when both of the following apply:

(a) The facility/agency has established a plan of care; and

(b) The physician spends thirty or more minutes per calendar month providing oversight for the client's care.

(3) MAA reimburses only one physician per client, per month, for physician care plan oversight services.

(4) MAA reimburses for physician care plan oversight services during the global surgical reimbursement period only when the care plan oversight is unrelated to the surgery.

#### NEW SECTION

**WAC 388-531-1200 Physician office medical supplies.** (1) Refer to RBRVS billing instructions for a list of:

(a) Supplies that are a routine part of office or other outpatient procedures and that cannot be billed separately; and

(b) Supplies that can be billed separately and that MAA considers nonroutine to office or outpatient procedures.

(2) MAA reimburses at acquisition cost certain supplies under fifty dollars that do not have a maximum allowable fee listed in the fee schedule. The provider must retain invoices for these items and make them available to MAA upon request.

(3) Providers must submit invoices for items costing fifty dollars or more.

(4) MAA reimburses for **sterile tray** for certain surgical services only. Refer to the fee schedule for a list of covered items.

#### NEW SECTION

**WAC 388-531-1250 Physician standby services.** (1) MAA reimburses **physician standby services** only when the standby physician does not provide care or service to other clients during this period, and either:

(a) The services are provided in conjunction with newborn care history and examination, or result in an admission to a neonatal intensive care unit on the same day; or

(b) A physician requests another physician to stand by, resulting in the prolonged attendance by the second physician without face-to-face client contact.

(2) MAA does not reimburse physician standby services when any of the following occur:

(a) The standby ends in a surgery or procedure included in a global surgical reimbursement;

(b) The standby period is less than thirty minutes; or

(c) Time is spent proctoring another physician.

(3) One unit of physician standby service equals thirty minutes. MAA reimburses subsequent periods of physician standby service only when full thirty minutes of standby is provided for each unit billed. MAA rounds down fractions of a thirty-minute time unit.

(4) The provider must clearly document the need for physician standby services in the client's medical record.

#### NEW SECTION

**WAC 388-531-1300 Podiatric physician-related services.** (1) MAA covers podiatric services as listed in this section when provided by any of the following:

(a) A medical doctor;

(b) A doctor of osteopathy; or

(c) A podiatric physician.

(2) MAA reimburses for the following:

(a) Nonroutine foot care when a medical condition that affects the feet (such as diabetes or arteriosclerosis obliterans) requires that any of the providers in subsection (1) of this section perform such care;

(b) One treatment in a sixty-day period for debridement of nails. MAA covers additional treatments in this period if documented in the client's medical record as being medically necessary;

(c) Impression casting. MAA includes ninety-day follow-up care in the reimbursement;

(d) A surgical procedure performed on the ankle or foot, requiring a local nerve block, and performed by a qualified provider. MAA does not reimburse separately for the anesthesia, but includes it in the reimbursement for the procedure; and

(e) Custom fitted and/or custom molded orthotic devices:

(i) MAA's fee for the orthotic device includes reimbursement for a biomechanical evaluation (an evaluation of the foot that includes various measurements and manipulations necessary for the fitting of an orthotic device); and

(ii) MAA includes an E&M fee reimbursement in addition to an orthotic fee reimbursement if the E&M services are justified and well documented in the client's medical record.

(3) MAA does not reimburse podiatrists for any of the following radiology services:

(a) X-rays for soft tissue diagnosis;

(b) Bilateral x-rays for a unilateral condition;

(c) X-rays in excess of two views;

(d) X-rays that are ordered before the client is examined;

or

(e) X-rays for any part of the body other than the foot or ankle.

#### NEW SECTION

**WAC 388-531-1350 Prolonged physician-related service.** (1) MAA reimburses prolonged services based on established Medicare guidelines. The services provided may or

may not be continuous. The services provided must meet both of the following:

- (a) Consist of face-to-face contact between the physician and the client; and
  - (b) Be provided with other services.
- (2) MAA allows reimbursement for a prolonged service procedure in addition to an E&M procedure or consultation, up to three hours per client, per diagnosis, per day, subject to other limitations in the CPT codes that may be used. The applicable CPT codes are indicated in the fee schedule.

#### NEW SECTION

**WAC 388-531-1400 Psychiatric physician-related services.** (1) MAA limits psychotherapy to one hour per day, per client, up to a total of twelve hours per calendar year. This includes family or group psychotherapy. Psychotherapy must be provided by a psychiatrist in the office, in the client's home, or in a nursing facility.

(2) MAA reimburses only one hospital call for direct psychiatric client care, per client, per day. Psychiatrists must bill the total time spent on direct psychiatric client care during each visit. Making rounds is considered direct client care and includes any one of the following:

- (a) Brief (up to one hour), individual psychotherapy;
- (b) Family/group therapy;
- (c) Electroconvulsive therapy; or
- (d) Pharmacologic management.

(3) MAA reimburses psychiatrists for either hospital care or psychotherapy, but not for both on the same day.

(4) MAA reimburses psychiatrists for a medical physical examination in the hospital in addition to a psychiatric diagnostic or evaluation interview examination.

(5) MAA reimburses only one psychiatric diagnostic interview examination in a calendar year unless a significant change in the client's circumstances renders an additional evaluation medically necessary.

(6) MAA requires psychiatrists to use hospital E&M codes when billing for daily rounds.

(7) MAA does not cover for psychiatric sleep therapy.

(8) Medication adjustment is the only psychiatric service for which MAA reimburses psychiatric ARNPs.

(9) MAA reimburses for one interactive or insight oriented call per client, per day, in an office or outpatient setting. Individual psychotherapy, interactive services may be billed only for clients age twenty and younger.

(10) DSHS providers must comply with chapters 275-55 and 275-57 WAC for hospital inpatient psychiatric admissions, and must follow rules adopted by the division of mental health or the appropriate regional support network (RSN). MAA does not reimburse for those psychiatric services that are eligible for reimbursement under those agencies.

#### NEW SECTION

**WAC 388-531-1450 Radiology physician-related services.** (1) MAA reimburses radiology services subject to the limitations in this section and under WAC 388-531-0300.

(2) MAA does not make separate payments for contrast material. The exception is low osmolar contrast media

(LOCM) used in intrathecal, intravenous, and intra-arterial injections. Clients receiving these injections must have one or more of the following conditions:

- (a) A history of previous adverse reaction to contrast material. An adverse reaction does not include a sensation of heat, flushing, or a single episode of nausea or vomiting;
- (b) A history of asthma or allergy;
- (c) Significant cardiac dysfunction including recent or imminent cardiac decompensation, severe arrhythmias, unstable angina pectoris, recent myocardial infarction, and pulmonary hypertension;
- (d) Generalized severe debilitation;
- (e) Sickle cell disease;
- (f) Pre-existing renal insufficiency; and/or
- (g) Other clinical situations where use of any media except LOCM would constitute a danger to the health of the client.

(3) MAA reimburse separately for radiopharmaceutical diagnostic imaging agents for nuclear medicine procedures. Providers must submit invoices for these procedures when requested by MAA, and reimbursement is at acquisition cost.

(4) MAA reimburses general anesthesia for radiology procedures. See WAC 388-531-0300.

(5) MAA reimburses radiology procedures in combination with other procedures according to the rules for multiple surgeries. See WAC 388-531-1700. The procedures must meet all of the following conditions:

- (a) Performed on the same day;
- (b) Performed on the same client; and
- (c) Performed by the same physician or more than one member of the same group practice.

(6) MAA reimburses consultation on X-ray examinations. The consulting physician must bill the specific radiological X-ray code with the appropriate **professional component** modifier.

(7) MAA reimburses for portable x-ray services furnished in the client's home or in nursing facilities, limited to the following:

- (a) Chest or abdominal films that do not involve the use of contract media;
- (b) Diagnostic mammograms; and
- (c) Skeletal films involving extremities, pelvis, vertebral column or skull.

#### NEW SECTION

**WAC 388-531-1500 Sleep studies.** (1) MAA covers sleep studies only when all of the following apply:

- (a) The study is done to establish a diagnosis of narcolepsy or of sleep apnea;
- (b) The study is done only at an MAA-approved sleep study center that meets the standards and conditions in subsections (2), (3), and (4) of this section; and
- (c) An ENT consultation has been done for a client under ten years of age.

(2) In order to become an MAA-approved sleep study center, a sleep lab must send MAA verification of both of the following:

(a) Sleep lab accreditation by the American Academy of Sleep Medicine; and

(b) Physician's Board Certification by the American Board of Sleep Medicine.

(3) Registered polysomnograph technicians (PSGT) must meet the accreditation standards of the American Academy of Sleep Medicine.

(4) When a sleep lab changes directors, MAA requires the provider to submit accreditation for the new director. If an accredited director moves to a facility that MAA has not approved, the provider must submit certification for the facility.

#### NEW SECTION

**WAC 388-531-1550 Sterilization physician-related services.** (1) For purposes of this section, sterilization is any medical procedure, treatment, or operation for the purpose of rendering a client permanently incapable of reproducing. A hysterectomy is a surgical procedure or operation for the purpose of removing the uterus. Hysterectomy results in sterilization, but MAA does not cover hysterectomy performed solely for that purpose. Both hysterectomy and sterilization procedures require the use of specific consent forms.

#### **STERILIZATION**

(2) MAA covers sterilization when all of the following apply:

(a) The client is at least eighteen years of age at the time consent is signed;

(b) The client is a mentally competent individual;

(c) The client has voluntarily given **informed consent** in accordance with all the requirements defined in this subsection; and

(d) At least thirty days, but not more than one hundred eighty days, have passed between the date the client gave informed consent and the date of the sterilization.

(3) MAA does not require the thirty-day waiting period, but does require at least a seventy-two hour waiting period, for sterilization in the following circumstances:

(a) At the time of premature delivery, the client gave consent at least thirty days before the expected date of delivery. The expected date of delivery must be documented on the consent form;

(b) For emergency abdominal surgery, the nature of the emergency must be described on the consent form.

(4) MAA waives the thirty-day consent waiting period for sterilization when the client requests that sterilization be performed at the time of delivery, and completes a sterilization consent form. One of the following circumstances must apply:

(a) The client became eligible for **medical assistance** during the last month of pregnancy;

(b) The client did not obtain medical care until the last month of pregnancy; or

(c) The client was a substance abuser during pregnancy, but is not using alcohol or illegal drugs at the time of delivery.

(5) MAA does not accept informed consent obtained when the client is in any of the following conditions:

(a) In labor or childbirth;

(b) Seeking to obtain or obtaining an abortion; or

(c) Under the influence of alcohol or other substances that affect the client's state of awareness.

(6) MAA has certain consent requirements that the provider must meet before MAA reimburses sterilization of a **mentally incompetent** or institutionalized client. MAA requires both of the following:

(a) A court order; and

(b) A sterilization consent form signed by the legal guardian, sent to MAA at least thirty days prior to the procedure.

(7) MAA reimburses epidural anesthesia in excess of the six-hour limit for sterilization procedures that are performed in conjunction with or immediately following a delivery. MAA determines total billable units by:

(a) Adding the time for the sterilization procedure to the time for the delivery; and

(b) Determining the total billable units by adding together the delivery BAUs, the delivery time, and the sterilization time.

(c) The provider cannot bill separately for the BAUs for the sterilization procedure.

(8) The physician identified in the "consent to sterilization" section of the DSHS-approved sterilization consent form must be the same physician who completes the "physician's statement" section and performs the sterilization procedure. If a different physician performs the sterilization procedure, the client must sign and date a new consent form at the time of the procedure that indicates the name of the physician performing the operation under the "consent for sterilization" section. This modified consent must be attached to the original consent form when the provider bills MAA.

(9) MAA reimburses all attending providers for the sterilization procedure only when the provider submits an appropriate, completed DSHS-approved consent form with the claim for reimbursement. MAA reimburses after the procedure is completed.

#### **HYSTERECTOMY**

(10) Hysterectomies performed for medical reasons may require expedited prior authorization as explained in WAC 388-531-0200(2).

(11) MAA reimburses hysterectomy without prior authorization in either of the following circumstances:

(a) The client has been diagnosed with cancer(s) of the female reproductive organs; and/or

(b) The client is forty-six years of age or older.

(12) MAA reimburses all attending providers for the hysterectomy procedure only when the provider submits an appropriate, completed DSHS-approved consent form with the claim for reimbursement. If a prior authorization number is necessary for the procedure, it must be on the claim. MAA reimburses after the procedure is completed.

#### NEW SECTION

**WAC 388-531-1600 Structured weight loss physician-related services.** MAA covers structured outpatient weight loss only through an MAA-approved program.

NEW SECTION

**WAC 388-531-1650 Substance abuse detoxification physician-related services.** (1) MAA reimburses substance abuse detoxification services under state-unique codes.

(2) MAA covers physician services for three-day alcohol detoxification or five-day drug detoxification services for a client eligible for medical care program services in an MAA-enrolled hospital-based detoxification center.

(3) MAA covers treatment in programs qualified under chapter 275-25 WAC and certified under chapter 275-19 WAC or its successor.

(4) MAA covers detoxification and medical stabilization services to chemically using pregnant (CUP) women for up to twenty-seven days in an inpatient hospital setting.

NEW SECTION

**WAC 388-531-1700 Surgical physician-related services.** (1) MAA's global surgical reimbursement for all covered surgeries includes all of the following:

(a) The operation itself;

(b) Postoperative dressing changes, including:

(i) Local incision care and removal of operative packs;

(ii) Removal of cutaneous sutures, staples, lines, wire, tubes, drains, and splints;

(iii) Insertion, irrigation, and removal of urinary catheters, routine peripheral intravenous lines, nasogastric and rectal tubes; or

(iv) Change and removal of tracheostomy tubes.

(c) All additional medical or surgical services required because of complications that do not require additional operating room procedures.

(2) MAA's global surgical reimbursement for major surgeries, includes all of the following:

(a) Preoperative visits, in or out of the hospital, beginning on the day before surgery; and

(b) Services by the primary surgeon, in or out of the hospital, during a standard ninety-day postoperative period.

(3) MAA's global surgical reimbursement for minor surgeries includes all of the following:

(a) Preoperative visits beginning on the day of surgery; and

(b) Follow-up care for zero or ten days, depending on the procedure.

(4) When a second physician provides follow-up services for minor procedures performed in hospital emergency departments, MAA does not include these services in the global surgical reimbursement. The physician may bill these services separately.

(5) MAA's global surgical reimbursement for multiple surgical procedures is as follows:

(a) Payment for multiple surgeries performed on the same client on the same day equals one hundred percent of MAA's allowed fee for the highest value procedure. Then,

(b) For additional surgical procedures, payment equals fifty percent of MAA's allowed fee for each procedure.

(6) MAA allows separate reimbursement for any of the following:

(a) The initial evaluation or consultation;

(b) Preoperative visits more than one day before the surgery;

(c) Postoperative visits for problems unrelated to the surgery; and

(d) Postoperative visits for services that are not included in the normal course of treatment for the surgery.

(7) MAA's reimbursement for endoscopy is as follows:

(a) The global surgical reimbursement fee includes follow-up care for zero or ten days, depending on the procedure.

(b) Multiple surgery rules apply when a provider bills multiple endoscopies from different endoscopy groups. See subsection (4) of this section.

(c) When a physician performs more than one endoscopy procedure from the same group on the same day, MAA pays the full amount of the procedure with the highest maximum allowable fee.

(d) MAA pays the procedure with the second highest maximum allowable fee at the maximum allowable fee minus the base diagnostic endoscopy procedure's maximum allowed amount.

(e) MAA does not pay when payment for other codes within an endoscopy group is less than the base code

(8) MAA restricts reimbursement for surgery assists to selected procedures as follows:

(a) MAA applies multiple surgery reimbursement rules for surgery assists apply. See subsection (4) of this section.

(b) Surgery assists are reimbursed at twenty percent of the maximum allowable fee for the surgical procedure.

(c) A surgical assist fee for a registered nurse first assistant (RNFA) is reimbursed if the nurse has been assigned a provider number.

(d) A provider must use a modifier on the claim with the procedure code to identify surgery assist.

(9) MAA bases payment splits between preoperative, intraoperative, and postoperative services on Medicare determinations for given surgical procedures or range of procedures. MAA pays any procedure that does not have an established Medicare payment split according to a split of ten percent - eighty percent - ten percent respectively.

(10) For preoperative and postoperative critical care services provided during a global period refer to WAC 388-531-0450.

NEW SECTION

**WAC 388-531-1750 Transplant coverage for physician-related services.** MAA covers transplants when performed in an MAA-approved center of excellence. See WAC 388-550-1900 for information regarding transplant coverage.

NEW SECTION

**WAC 388-531-1800 Transplant coverage—Medical criteria to receive transplants.** See WAC 388-550-2000 for information about medical criteria to receive transplants.

NEW SECTION**WAC 388-531-1850 Payment methodology for physician-related services—General and billing modifiers. GENERAL PAYMENT METHODOLOGY**

(1) MAA bases the payment methodology for most physician-related services on Medicare's RBRVS. MAA obtains information used to update MAA's RBRVS from the MPFSPS.

(2) MAA updates and revises the following RBRVS areas each January prior to MAA's annual update.

(3) MAA determines a budget-neutral conversion factor (CF) for each RBRVS update, by:

(a) Determining the units of service and expenditures for a **base period**. Then,

(b) Applying the latest Medicare RVU obtained from the MPFSDB, as published in the MPFSPS, and GCPI changes to obtain projected units of service for the new period. Then,

(c) Multiplying the projected units of service by conversion factors to obtain estimated expenditures. Then,

(d) Comparing expenditures obtained in (c) of this subsection with base period expenditure levels.

(e) Adjusting the dollar amount for the conversion factor until the product of the conversion factor and the projected units of service at the new RVUs equals the base period amount.

(4) MAA calculates maximum allowable fees (MAFs) in the following ways:

(a) For procedure codes that have applicable Medicare RVUs, the three components (practice, malpractice, and work) of the RVU are:

(i) Each multiplied by the statewide GCPI. Then,

(ii) The sum of these products is multiplied by the applicable conversion factor. The resulting RVUs are known as RBRVS RVUs.

(b) For procedure codes that have no applicable Medicare RVUs, RSC RVUs are established in the following way:

(i) When there are three RSC RVU components (practice, malpractice, and work):

(A) Each component is multiplied by the statewide GCPI. Then,

(B) The sum of these products is multiplied by the applicable conversion factor.

(ii) When the RSC RVUs have just one component, the RVU is not GCPI adjusted and the RVU is multiplied by the applicable conversion factor.

(c) For procedure codes with no RBRVS or RSC RVUs, MAA establishes maximum allowable fees, also known as "flat" fees.

(i) MAA does not use the conversion factor for these codes.

(ii) MAA updates flat fee reimbursement only when the legislature authorizes a vendor rate increase, except for the following categories which are revised annually during the update:

(A) Immunization codes are reimbursed at EAC. (See WAC 388-530-1050 for explanation of EAC.) When the provider receives immunization materials from the department of health, MAA pays the provider a flat fee only for administering the immunization.

(B) A **cast material maximum allowable fee** is set using an average of wholesale or distributor prices for cast materials.

(iii) Other supplies are reimbursed at physicians' acquisition cost, based on manufacturers' price sheets. Reimbursement applies only to supplies that are not considered part of the routine cost of providing care (e.g., intrauterine devices (IUDs)).

(d) For procedure codes with no RVU or maximum allowable fee, MAA reimburses "by report." By report codes are reimbursed at a percentage of the amount billed for the service.

(e) For supplies that are dispensed in a physician's office and reimbursed separately, the provider's acquisition cost when flat fees are not established.

(f) MAA reimburses at acquisition cost those HCPCS J and Q codes that do not have flat fees established.

(5) The **technical advisory group** reviews RBRVS changes.

(6) MAA also makes fee schedule changes when the legislature grants a vendor rate increase and the effective date of that increase is not the same as MAA's annual update.

(7) If the legislatively authorized vendor rate increase, or other increase, becomes effective at the same time as the annual update, MAA applies the increase after calculating budget-neutral fees. MAA pays providers a higher reimbursement rate for primary health care E&M services that are provided to children age twenty and under.

(8) MAA does not allow separate reimbursement for bundled services. However, MAA allows separate reimbursement for items considered prosthetics when those items are used for a permanent condition and are furnished in a provider's office.

(9) Variations of payment methodology which are specific to particular services and which differ from the general payment methodology described in this section are included in the sections dealing with those particular services.

**CPT/HCFA MODIFIERS**

(10) A modifier is a code a provider uses on a claim in addition to a billing code for a standard procedure. Modifiers eliminate the need to list separate procedures that describe the circumstance that modified the standard procedure. A modifier may also be used for information purposes.

(11) Certain services and procedures require modifiers in order for MAA to reimburse the provider. This information is included in the sections dealing with those particular services and procedures, as well as the fee schedule.

NEW SECTION

**WAC 388-531-1900 Reimbursement—General requirements for physician-related services.** (1) MAA reimburses physicians and related providers for covered services provided to eligible clients on a fee-for-service basis, subject to the exceptions, restrictions, and other limitations listed in this chapter and other published issuances.

(2) In order to be reimbursed, physicians must bill MAA according to the conditions of payment under WAC 388-501-0150 and other issuances.

(3) MAA does not separately reimburse certain administrative costs or services. MAA considers these costs to be included in the reimbursement. These costs and services include the following:

- (a) Delinquent payment fees;
- (b) Educational supplies;
- (c) Mileage;
- (d) Missed or canceled appointments;
- (e) Reports, client charts, insurance forms, copying expenses;
- (f) Service charges;
- (g) Take home drugs; and
- (h) Telephoning (e.g., for prescription refills).

(4) MAA does not routinely pay for procedure codes which have a "#" indicator in the fee schedule. MAA reviews these codes for conformance to Medicaid program policy only as an exception to policy or as a limitation extension. See WAC 388-501-0160 and 388-501-0165.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 388-86-011	Advanced registered nurse practitioners (ARNP) services.
WAC 388-86-055	Laboratory services.
WAC 388-86-095	Physician services.
WAC 388-86-09601	Podiatric services.
WAC 388-86-110	X-ray services.
WAC 388-87-075	Payment—Laboratory services.
WAC 388-87-095	Payment—Physician service.

**WSR 01-02-031  
PERMANENT RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Children's Administration)  
[Filed December 22, 2000, 2:36 p.m.]**

Date of Adoption: December 22, 2000.  
 Purpose: Chapter 388-151 WAC, Minimum licensing requirements for child care centers caring exclusively for school-age children.  
 Citation of Existing Rules Affected by this Order: Repealing WAC 388-151-050; and amending WAC 388-151-010, 388-151-020, 388-151-040, 388-151-070, 388-151-080, 388-151-085, 388-151-090, 388-151-092, 388-151-093, 388-151-094, 388-151-095, 388-151-096, 388-151-097, 388-151-098, 388-151-100, 388-151-110, 388-151-120, 388-151-130, 388-151-150, 388-151-160, 388-151-165, 388-151-170, 388-151-180, 388-151-190, 388-151-200, 388-151-210, 388-151-220, 388-151-230, 388-151-240, 388-151-250, 388-151-

260, 388-151-280, 388-151-290, 388-151-310, 388-151-320, 388-151-330, 388-151-340, 388-151-380, 388-151-390, 388-151-410, 388-151-420, 388-151-430, 388-151-440, 388-151-450, 388-151-460, 388-151-470, 388-151-480, 388-151-490, and 388-151-500.

Statutory Authority for Adoption: RCW 74.15.020.

Adopted under notice filed as WSR 00-17-124 on August 18, 2000.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-151-010, changed definition of school-age child to mean a child five years of age through twelve years of age enrolled in school. Clarified WAC 388-151-020 to make clear that only licensed or certified providers may receive subsidy payments.

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 49, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 49, 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 2, Amended 49, Repealed 1.

Effective Date of Rule: Thirty-one days after filing.

December 22, 2000

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 98-24-052, filed 11/25/98, effective 12/26/98)

**WAC 388-151-010** What definitions((s)) are important for the school-age child care center program? ~~((As used and defined))~~ The following definitions are important under this chapter:

**"Capacity"** means the maximum number of children the licensee is authorized to have on the premises at a given time.

**"Child abuse or neglect"** means the injury, sexual abuse, sexual exploitation, or negligent treatment or maltreatment of a child ~~((by any person under circumstances indicating the child's health, welfare, or safety is harmed thereby))~~ as defined in RCW 26.44.020 and chapter 388-15 WAC.

**"Department"** means the state department of social and health services (DSHS), the ~~((organization vested))~~ state agency with the legal authority to regulate and certify school-age child care centers.

**"Department of health"** means the state department of health.

"I," "you," and "your" refer to and mean the licensee or applicant for child care license.

**PERMANENT**

"License" means a permit issued by the department ~~((authorizing by law the licensee))~~ to a person or organization to operate a school-age child care center and affirming the licensee meets requirements under licensure.

"Licensee" means the person, organization, or legal entity named on the facility license and responsible for operating the center.

"Licensor" means the person employed by the department to regulate and license a school-age child care center.

"Premises" means the building where the center is located and the adjoining grounds over which the licensee has control.

"School-age child" means a child five years of age through twelve years of age ~~((attending))~~ enrolled in a public or private school.

"School-age child care center" means a program operating in a facility other than a private residence, accountable for school-age children when school is not in session. ~~((It shall))~~ The program must meet department licensing requirements, provide adult-supervised care, and a variety of developmentally appropriate activities.

"Staff" means a ~~((child care giver or a group of child care givers))~~ person or persons employed by the licensee to provide child care and to supervise ~~((a child))~~ children served at the center.

"The Washington state training and registry system (STARS)" means the entity approved by the department to determine the classes, courses, and workshops licensees and staff may take to satisfy the department's training requirements.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-020** ~~((Scope of licensing.))~~ Who needs to be licensed? (1) The person or organization operating a school-age child care center ~~((shall be subject to licensing as authorized under))~~ must receive a license from the department to provide school-age child care, in accordance with chapter 74.15 RCW.

(2) The department does not need to license the person or organization operating a school-age child care center ~~((and qualifying for exemption from requirements of this chapter under RCW 74.15.020(4) shall not be subject to licensure))~~ if chapter 74.15 RCW ~~((includes))~~ exempts the person or organization ~~((among the entities exempt))~~ from the licensing requirements. The person or organization claiming an exemption ~~((shall))~~ from the licensing requirements must provide the department proof of entitlement to the exemption at the licensor's request.

(3) You may use the following matrix to determine whether or not you are exempt from licensing:

<u>Child care</u>	<u>Recreational</u>
<u>The child care facility assumes responsibility for the child and his welfare.</u>	<u>Children are free to come and go as they choose.</u>

Children are signed in and can only be released to an authorized adult.

A specific registration procedure and required forms must be completed.

Must adhere to DSHS standards; has specific requirements regarding staff-child ratio and group size.

Specific DSHS requirements regarding policies and procedures are in a parent handbook.

There are specific program goals and activities; calendars of activities are posted and available.

No responsibility is assumed in lieu of parent.

No registration form or procedure.

No required staff-child ratio or group size requirements.

No specific detailed policies and procedures. General "house rules" apply at each site.

Activities occur on a daily basis; no long-term goals or activities exist.

(4) The person or organization that serves state-paid children must:

- (a) Be licensed or certified;
- (b) Follow billing policies and procedures in Child Care Subsidies, a brochure for providers, DSHS 22-877(X), and;
- (c) Bill the department at the person's or organization's customary rate or the DSHS rate, whichever is less.

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 Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-040** What local ordinances and codes apply? ~~((1) The department shall issue or deny a license on the basis of the applicant's compliance with school-age child care licensing and procedural requirements.~~

(2) The licensee or applicant shall be responsible for compliance with city ordinances and county codes, such as zoning and building regulations.) The licensee or applicant for license must comply with city ordinances and county codes, including zoning and building regulations.

**NEW SECTION**

**WAC 388-151-045** What is the basis for the department's issuance or denial of a license? The department must issue or deny a license on the basis of the applicant's compliance with school-age child care licensing requirements.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-070** ~~((Applicant and reapplication for licensing investigation.))~~ How do I apply or reapply for a license? (1) ~~((The person or organization applying for a lie-~~

PERMANENT



~~licensee or relicensure under this chapter and responsible for operating the center shall~~) You must comply with the department's application procedures ~~((the department prescribes))~~ and submit to the department:

(a) A completed department-supplied application for school-age child care center license, including attachments, ninety or more days before the:

- (i) Expiration of ~~((a))~~ your current license;
- (ii) Opening date of ~~((a))~~ your center;
- (iii) Relocation of ~~((a))~~ your center; or
- (iv) Change of the licensee.

(b) A completed criminal history and background inquiry form for each staff person or volunteer having unsupervised or regular access to the child in care; and

(c) The annual licensing fee. The fee is forty-eight dollars per year for the first twelve children plus four dollars for each additional child over the licensed capacity of twelve children.

(2) In addition to the required application materials specified under subsection (1) of this section, ~~((the applicant for initial licensure shall))~~ you must submit to the department:

(a) An employment and education resume of the person responsible for the active management of the center and of the site coordinator;

(b) Copies of diplomas or education ~~((transcript copies))~~ transcripts of the director and site coordinator; and

(c) Three professional references each for ~~((the licensee))~~ you, the director, and the site coordinator.

(3) You, as the applicant for a license under this chapter ~~((shall))~~ must be twenty-one years of age or older.

(4) The department may, at any time, require additional information from ~~((the applicant, licensee,))~~ you, any staff person, any volunteer, members of ~~((their))~~ the household of any of these individuals, and other persons having access to the ~~((child in care as the department deems necessary including))~~ children in care. The additional information includes, but is not limited to:

- (a) Sexual deviancy evaluations;
- (b) Substance and alcohol abuse evaluations;
- (c) Psychiatric evaluations;
- (d) Psychological evaluations; and
- (e) Medical evaluations.

(5) The department may perform investigations of ~~((the applicant, licensee))~~ you, staff persons, volunteers, members of ~~((their))~~ the households of these individuals, and other persons having access to the child in care as the department deems necessary, including accessing criminal histories and law enforcement files.

(6) ~~((The applicant shall))~~ You must conform to rules and regulations approved or adopted by the:

(a) State department of health ~~((, promoting))~~ and relating to the health care of ~~((the child in care, contained in this chapter, and))~~ children at school-age child care centers;

(b) State fire marshal's office, establishing standards for fire prevention and protection of life and property from fire, under chapter 212-56A WAC.

(7) The department ~~((shall))~~ must not issue a license to ~~((the applicant))~~ you until the department of health and the state fire marshal's office have certified or inspected and approved the center.

(8) The department may exempt a school site possessing a fire safety certification signed by the local fire official within six months prior to licensure from the requirement to receive an additional fire safety inspection by the state fire marshal's office.

(9) ~~((The licensee shall))~~ You must submit a completed plan of deficiency correction, when required, to the department of health and the department licensor ~~((prior to issuance of the licensee, when required))~~ before the department will issue you a license.

(10) You, your director and site coordinator must attend department-provided orientation training.

## NEW SECTION

**WAC 388-151-075 How do I get a waiver of the licensing requirements contained in this chapter?** (1) In an individual case, the department, for good cause, may waive a specific requirement and approve an alternate method for you to achieve the specific requirement's intent if:

(a) You submit to the department a written waiver request fully explaining the circumstances necessitating the waiver; and

(b) The department decides the department's approval of the waiver approval will not jeopardize the safety or welfare of the child in care or detract from the quality of licensee-delivered services.

(2) The department may approve a waiver request only for a specific purpose or child and for a specific period of time not exceeding the expiration date of your license.

(3) The department may limit or restrict a license the department issues to you in conjunction with a waiver.

(4) You must maintain a copy of the department's written waiver approval on the premises.

(5) You may not appeal the department's denial of your request for waiver under chapter 34.05 RCW.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-080 How does the department determine my licensed capacity?** (1) The department ~~((shall))~~ issues the applicant or licensee a license for a specific number of children ~~((dependent))~~ depending on ~~((the))~~:

(a) The department's evaluation of ~~((the))~~ your center's premises, equipment, and physical accommodations;

(b) The number and skills of ~~((the licensee))~~ you, your, staff, and your volunteers; and

(c) The ages and characteristics of the children ~~((served))~~ you serve.

(2) The department:

(a) ~~((shall))~~ Must not issue ~~((the applicant or licensee))~~ you a license to care for more children than ~~((permitted under))~~ this chapter permits; and

(b) May issue ~~((the applicant or licensee))~~ you a license to care for fewer children than ~~((the))~~ your center's maximum capacity.

**AMENDATORY SECTION** (Amending WSR 96-20-095, filed 10/1/96, effective 11/1/96)

**WAC 388-151-085 How do I get an initial license?** (1) The department may issue an initial license to ~~((an applicant))~~ you if you are not currently licensed to provide child ~~((day))~~ care when ~~((the applicant))~~ you:

(a) Can demonstrate compliance with the rules contained in this chapter pertaining to the health and safety of the child in care; but

(b) Cannot demonstrate compliance with the rules pertaining to:

- (i) Staff-child interactions,
- (ii) Group size and staff-child ratios,
- (iii) Behavior management and discipline,
- (iv) Activity programs,
- (v) Child records and information, and
- (vi) Other rules requiring department observation of the applicant's ability to comply with rules.

(c) Can provide a plan, acceptable to the department, to comply with rules found in subsection (1)(b) of this section.

(2) The department may issue an initial license to ~~((an applicant))~~ you for a period not to exceed six months, renewable for a period not to exceed two years.

(3) The department ~~((shall))~~ must evaluate ~~((the applicant's))~~ your ability to comply with all rules contained in this chapter during the period of initial licensure prior to issuing a full license.

(4) The department may issue a full license to ~~((the applicant demonstrating))~~ you if you demonstrate your compliance with all rules contained in this chapter at any time during the period of initial licensure.

(5) The department ~~((shall))~~ must not issue a full license to ~~((the applicant who does))~~ you if you do not demonstrate the ability to comply with all rules contained in this chapter during the period of initial licensure.

**AMENDATORY SECTION** (Amending Order 3974, filed 4/26/96, effective 5/27/96)

**WAC 388-151-090 How may the department deny, suspend, or revoke my license?** ~~((denial, suspension, or revocation))~~ (1) Before granting a license and as a condition for continuance of a license, the department ~~((shall))~~ must consider ~~((the))~~ your ability ~~((of the applicant and licensee))~~ to meet the requirements of this chapter. If more than one person is the applicant or licensee, the department:

(a) ~~((shall))~~ Must consider ~~((their))~~ the applicants' or the licensees' qualifications separately and jointly; and

(b) May deny, suspend, revoke, or not renew the license based on the failure of one of the persons to meet the requirements of chapter 74.15 RCW and this chapter.

(2) The department ~~((shall))~~ must deny, suspend, revoke, or not renew the license of a person who:

(a) Has abused, neglected, or sexually exploited a child as those acts or omissions are defined in RCW 26.44.020 and chapter 388-15 WAC ~~((388-15-130))~~;

(b) Is ineligible to provide care because ~~((of))~~ the person has a criminal history ~~((under))~~ as described in chapter 388-330 WAC ~~((, or allows such a person on the premises;~~

~~((b)))~~;

~~((c))~~ Allows a person meeting the conditions of (a) or (b) of this subsection on the premises;

~~((d))~~ Commits or was convicted of a felony reasonably related to the competency of the person to meet the requirements of this chapter;

~~((e))~~ (e) Engages in illegal use of a drug or excessive use of alcohol;

~~((f))~~ (f) Commits, permits, aids, or abets the commission of an illegal act on the premises;

~~((g))~~ (g) Commits, permits, aids, or abets the abuse, neglect, exploitation, or cruel or indifferent care ~~((to))~~ of a child in care;

~~((h))~~ (h) Refuses to permit an authorized representative of the department, state fire marshal's office, or department of health to inspect the premises; or

~~((i))~~ (i) Refuses to permit an authorized representative of the department or the department of health access to records related to operation of the center or to interview staff or a child in care.

(3) The department may deny, suspend, revoke, or not renew a license of a person who:

(a) Seeks to obtain or retain a license by fraudulent means or misrepresentation including, but not limited to:

(i) Making a materially false statement on the application; or

(ii) Omitting material information on the application.

(b) Provides insufficient staff in relation to the number, ages, or characteristics of children in care;

(c) Allows a person unqualified by training, experience, or temperament to care for or be in contact with a child in care;

(d) Violates any condition or limitation on licensure including, but not limited to:

(i) Permitting more children on the premises than the number for which the ~~((center is))~~ department licensed the center; or

(ii) Permitting ~~((on the premises))~~ a child of ~~((an age))~~ a different age from the ages for which the ~~((center is))~~ department licensed the center to be on the premises.

(e) Fails to provide adequate supervision to a child in care;

(f) Demonstrates an inability to exercise fiscal responsibility and accountability with respect to operation of the center;

(g) Misappropriates property of a child in care;

(h) Knowingly permits ~~((on the premises))~~ an employee or volunteer who has made a material misrepresentation on an application for employment or volunteer service to be on the premises;

(i) Refuses or fails to supply necessary, additional department requested information; or

(j) Fails to comply with any provision of chapter 74.15 RCW or this chapter.

(4) The department ~~((shall))~~ must not issue a license to a person who has been denied ~~((, suspended, revoked, or not renewed))~~ a license, or has had a license to operate a facility for the care of ~~((the))~~ children or adults suspended, revoked, or not renewed, either in this state or ~~((elsewhere, unless))~~ another state. Exception: If the person demonstrates by

clear, cogent, and convincing evidence that the person has undertaken sufficient corrective action or rehabilitation to warrant public trust and to operate the center in accordance with the rules of this chapter, the department may issue a license to that person.

(5) RCW 43.20.205 governs the department's notice of a denial, revocation, suspension, or modification of a license and ~~((the applicant's or licensee's))~~ your right to a hearing ~~((shall be governed under RCW 43.20.205)).~~

**AMENDATORY SECTION** (Amending WSR 96-20-095, filed 10/1/96, effective 11/1/96)

**WAC 388-151-092 Under what conditions does the department impose civil penalties~~(+)~~ against me?** (1) Before imposing a civil penalty, the department ~~((shall))~~ must provide written notification to you by personal service, ~~((including))~~ by the licensor or another person, or certified mail ~~((which shall))~~ that includes:

(a) A description of the violation and citation of the applicable requirement or law;

(b) A statement of what ~~((is required))~~ you must do to achieve compliance;

(c) The date by which the department requires compliance;

(d) The maximum allowable penalty if you do not achieve timely compliance ~~((is not achieved));~~

(e) The means to contact any technical assistance services provided by the department or others; and

(f) Notice of when, where, and to whom you may file a request with the department to extend the time to achieve compliance for good cause ~~((may be filed with department)).~~

(2) The length of time ~~((in which))~~ you have to comply ~~((shall))~~ depends on:

(a) The seriousness of the violation;

(b) The potential threat to the health, safety and welfare of children in care; or

(c) Previous opportunities to correct the deficiency.

(3) The department may impose a civil penalty based on but not limited to these reasons:

(a) The department previously has imposed an enforcement action for the same or similar type of violation of the same statute or rule on your child care center ~~((has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule));~~ or

(b) The department has previously given your child care center ~~((has previously been given))~~ notice of the same or similar type of violation of the same statute or rule; or

(c) The violation represents a potential threat to the health, safety, and/or welfare of children in care.

(4) The department may impose a civil penalty in addition to or in conjunction with other disciplinary actions against a child care license including probation, suspension, or other action.

(5) You must pay the civil fine ~~((shall be payable))~~ within twenty-eight days after receipt of the notice or later as specified by the department.

(6) The department may forgive the fine ~~((may be forgiven))~~ if the ~~((agency))~~ you come~~(s)~~ into compliance during the notification period.

(7) You, as the center or person against whom the department assesses a civil fine ~~((has)),~~ have a right to an adjudicative proceeding ~~((as governed by))~~ under RCW 43.20A.215.

**AMENDATORY SECTION** (Amending WSR 96-20-095, filed 10/1/96, effective 11/1/96)

**WAC 388-151-093 What is the amount of the civil ~~((penalties—Amount of penalty.))~~ penalty the department may impose?** Whenever the department imposes a civil monetary penalty ~~((per WAC 388-151-092(3))),~~ the department ~~((shall))~~ must impose a penalty of two hundred and fifty dollars per violation per day. The department may assess and collect the penalty with interest for each day of noncompliance.

**AMENDATORY SECTION** (Amending WSR 96-20-095, filed 10/1/96, effective 11/1/96)

**WAC 388-151-094 Must I post the department's notice of civil ~~((penalties—Posting of notice of penalty.))~~ penalty?** (1) ~~((The licensee shall))~~ You must post the final notice of a civil penalty in a conspicuous place in the facility.

(2) You must continue to post the notice ~~((shall remain posted))~~ until the department receives your payment ~~((is received by the department)).~~

**AMENDATORY SECTION** (Amending WSR 96-20-095, filed 10/1/96, effective 11/1/96)

**WAC 388-151-095 May the department assess civil penalties~~(—)~~ on unlicensed programs~~(+)~~?** If the department receives information that a school-age program is operating without a license, the department will investigate. The department may contact the program, send a letter, or make an on-site visit to determine that the agency is operating without a license. Where the department has determined that an agency is operating without a license, the department ~~((shall))~~ must send written notification to the unlicensed program by certified mail or other means showing proof of service. This notification ~~((shall))~~ must contain the following:

(1) ~~((Advising))~~ Notice to the agency of the basis ~~((of))~~ for the department's determination ~~((of))~~ that the agency is providing child care without a license and the need for the department to ~~((be licensed by the department))~~ license the agency;

(2) The citation of the applicable law;

(3) The assessment of seventy-five dollars per day penalty for each day the agency provides unlicensed care ~~((is provided)).~~ The department makes the fine ~~((would be))~~ effective and payable within thirty days of the agency's receipt of the notification;

(4) How to contact the office of child care policy;

(5) The unlicensed agency's need to submit an application to the office of child care policy within thirty days of receipt of the department's notification;

(6) That the department may forgive the penalty ~~((may be forgiven))~~ if the agency submits an application within thirty days of the notification; and

(7) The unlicensed agency's right ~~((of))~~ to an adjudicative proceeding as a result of the assessment of a monetary penalty and the appropriate procedure for requesting an adjudicative proceeding.

**AMENDATORY SECTION** (Amending WSR 96-20-095, filed 10/1/96, effective 11/1/96)

**WAC 388-151-096** May the department impose civil penalties~~((—))~~ for separate violations~~((s))~~? Each violation of a law or rule constitutes a separate violation ~~((and may be penalized as such))~~. The department may penalize each violation. The department may impose a penalty ~~((may be imposed))~~ for each day the violation continues.

**AMENDATORY SECTION** (Amending WSR 96-20-095, filed 10/1/96, effective 11/1/96)

**WAC 388-151-097** What if I do not pay the civil ~~((penalties — Penalty for nonpayment.))~~ penalty? ~~((Penalty for nonpayment.))~~ The department may suspend, revoke or not renew a license for failure to pay a civil monetary penalty ~~((it))~~ the department has assessed within ten days after such assessment becomes final.

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 96-20-095, filed 10/1/96, effective 11/1/96)

**WAC 388-151-098** Under what circumstances may the department issue a probationary license~~((s))~~? (1) The department ~~((shall))~~ must base the decision ~~((as to whether a probationary license will be issued upon))~~ to issue a probationary license on the following factors:

(a) Willful or negligent noncompliance by ~~((the licensee))~~ you,

- (b) History of noncompliance,
- (c) Extent of deviation from the requirements,
- (d) Evidence of a good faith effort to comply,
- (e) Any other factors relevant to the unique situation.

(2) Where the negligent or willful violation of the licensing law does not present an immediate threat to the health and well-being of the children but would be likely to do so if allowed to continue, the department may issue a probationary license ~~((may be issued as well as))~~ in addition to civil penalties or other sanctions. Such situations may include:

- (a) Substantiation that a child (or children) was abused or neglected while in the care of the center,
- (b) Disapproved fire safety or sanitation report,
- (c) Use of unauthorized space for child care,
- (d) Inadequate supervision of children,
- (e) Understaffing for the number of children in care,
- (f) Noncompliance with requirements addressing:
  - (i) Children's health,
  - (ii) Proper nutrition,
  - (iii) Discipline,
  - (iv) Emergency medical plan,

(v) Sanitation and personal hygiene practices.

(3) ~~((Licensee required to))~~ You must notify parents of all children in care or who may apply for care when the department issues a probationary ~~((licensed is issued))~~ license to you:

(a) ~~((The licensee shall))~~ You must notify the parents or guardians of all children in care ~~((that it is in))~~ of the program's probationary status within five working days of receiving the department's notification ~~((he or she has been))~~ that the department has issued a probationary license;

(b) ~~((The notification shall be))~~ You must notify parents and guardians in writing, and ~~((shall be approved by the department prior to being sent))~~ the department must approve the notice before you send the notification;

(c) ~~((The licensee shall))~~ You must provide documentation to the department that you have notified parents or guardians of all children in care ~~((have been notified))~~ within ten working days ~~((of receiving))~~ after you receive notification that ~~((he or she has been issued))~~ the department has issued a probationary license. Documentation must consist of a copy of the letter you have sent to the parents;

(d) The department may issue a probationary license for up to six months, and at the department's discretion ~~((of))~~, the department ~~((it may be extended))~~ may extend the probationary license for an additional six months.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-100** What must I include in the center's activity program~~((s))~~? (1) ~~((The licensee shall))~~ You must implement an activity program designed to meet the developmental, cultural, and individual needs of the ~~((child served. The licensee shall))~~ children you serve. You must ensure the program contains a range of learning experiences for the ~~((child))~~ children to:

(a) Gain self-esteem, self-awareness, conflict resolution, self-control, and decision-making abilities;

(b) Develop socially, emotionally, intellectually, and physically;

(c) Learn about nutrition, health, and personal safety; and

(d) Experiment, create, and explore.

(2) ~~((The licensee shall))~~ You must ensure the center's program offers variety and options including a balance between:

(a) Child-initiated and staff-initiated activities;

(b) Free ~~((play))~~ choice and organized events;

(c) Individual and group activities; and

(d) Quiet and active experiences.

(3) ~~((The licensee shall))~~ You must ensure that the center's program ~~((affords))~~ provides the child daily opportunities for small and large muscle activities and outdoor play.

(4) ~~((The licensee shall))~~ You must operate the center's program under a regular schedule of activities with allowances for a variety of special events. ~~((The licensee shall))~~ You must implement a planned program of activities ~~((as evidenced))~~ by using a current, written activity schedule ~~((and afford))~~ that includes staff classroom planning time.

(5) ~~((The licensee shall))~~ You must manage child and staff movements from one planned activity or care area to another to achieve smooth, unregimented transitions by:

- (a) Establishing familiar routines;
- (b) Contributing to learning experiences; and
- (c) Maintaining staff-to-child ratio and group size guidelines.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-110 What learning and play materials must I provide?** ~~((The licensee shall))~~ You must provide the ~~((child))~~ children in care a variety of easily accessible, developmentally appropriate equipment and materials of sufficient quantity to implement the center's program. ~~((The licensee shall ensure material is))~~ You must ensure that materials are culturally relevant and promote~~(s)~~:

- (1) Social development;
- (2) Communication ability;
- (3) Self-help skills;
- (4) Large and small muscle development; and
- (5) Creative expression.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-120 How must my child care center staff interact with the children?** ~~((child interactions))~~ interact with the children? (1) ~~((The licensee shall))~~ You must furnish the ~~((child))~~ children a nurturing, respectful, supportive, and responsive environment through frequent interactions between the ~~((child))~~ children and staff:

- (a) Supporting the ~~((child))~~ children in developing an understanding of self and others by assisting the ~~((child))~~ children to share ideas, experiences, and feelings;
- (b) Providing age-appropriate opportunities for growth and development of the ~~((child's))~~ children's social and communication skills, including encouraging the ~~((child))~~ children to ask questions;
- (c) Helping the ~~((child))~~ children solve problems;
- (d) Fostering creativity and independence in routine activities, including showing tolerance for mistakes; and
- (e) Treating equally all children in care regardless of race, religion, culture, sex, and ~~((handicapping condition))~~ ability.

(2) ~~((The licensee shall))~~ You must furnish the ~~((child))~~ children in care a pleasant and social atmosphere at meal and snack times. Your staff ~~((shall))~~ must provide good models for nutrition habits and social behavior.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-130 How must I discipline the children and manage the children's behavior (management and discipline)?** (1) ~~((The licensee shall))~~ You must guide the ~~((child's))~~ children's behavior based on an understanding of the individual child's needs and stage of development.

~~((The licensee shall))~~ You must support the child's developmentally appropriate social behavior, self-control, and respect for the rights of others.

(2) ~~((The licensee shall))~~ You must ensure that your behavior management and discipline practices are fair, reasonable, consistent, and related to the child's behavior. Your staff ~~((shall))~~ must not administer cruel, unusual, hazardous, frightening, or humiliating discipline.

(3) ~~((The licensee shall))~~ You must be responsible for implementing the behavior management and discipline practices of the center.

(4) ~~((The licensee shall))~~ You must prohibit and prevent ~~((by))~~ any person on the premises from:

- (a) Biting, jerking, shaking, spanking, slapping, hitting, striking, or kicking the child, or exercising other means of inflicting physical or emotional pain, or causing bodily harm;
- (b) The use of a physical restraint method injurious to the child;
- (c) The use of a mechanical restraint, locked time-out room, or closet;
- (d) The use of verbal abuse; or
- (e) The withholding of food as a punishment.

(5) In emergency situations, ~~((the))~~ you or your staff person ~~((competent to use restraint methods))~~ may use limited physical restraint not injurious to the child when:

- (a) Protecting a person on the premises from physical injury;
  - (b) Obtaining possession of a weapon or other dangerous object; or
  - (c) Protecting property from serious damage.
- (6) ~~((The licensee shall))~~ You must document any incident involving the use of physical restraint and notify the child's parent of the use of the restraint.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-150 What does the department require for evening and nighttime care(??)?** (1) For the center offering school-age child care during evening and nighttime hours, ~~((the licensee shall))~~ you must, in addition to meeting daytime regulations, adapt the program, equipment, and staffing pattern to meet the physical and emotional needs of the child away from home at night.

(2) ~~((The licensee shall))~~ You must maintain the same staff-to-child ratio in effect during daytime care. At all times, your staff ~~((shall))~~ must keep the child within continuous visual or auditory range.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-160 What does the department require for off-site trips(??)?** (1) ~~((The licensee))~~ You may transport or permit the supervised off-site travel of ~~((the child))~~ children to participate in field trips or engage in other off-site activities only with written ~~((parent))~~ parental consent.

- (2) The parent's consent may be:
  - (a) For a specific date and trip; or

(b) A blanket authorization describing the full range of trips the child may take. In such a case, ~~((the licensee shall))~~ you must notify the parent in advance about ~~((the))~~ each trip.

(3) For group field trips, ~~((the licensee shall))~~ you must ensure that:

(a) Emergency information and medical treatment authorization for each child in the group ~~((is present))~~ accompanies the child;

(b) A first aid kit is available;

(c) You maintain a written list of children participating ~~((is maintained))~~; and

(d) You maintain required staff-child ratios ~~((are maintained))~~.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-165 What does the department require for transportation(??)?** When ~~((the licensee furnishes))~~ you furnish transportation for the child in care:

(1) ~~((The licensee shall ensure that))~~ You must maintain the motor vehicle ~~((is maintained))~~ in a safe operating condition and ~~((is))~~ ensure that the Washington state patrol has approved ~~((by the Washington state patrol))~~ the vehicle, when applicable;

(2) ~~((The licensee or driver shall))~~ You or the driver must carry liability and medical insurance;

(3) The driver ~~((shall))~~ must have a current driver's license, valid for the classification of motor vehicle ~~((operated))~~ the driver operates, and current first aid and CPR certification;

(4) ~~((The licensee shall ensure))~~ You must ensure that a minimum of one staff person other than the driver is present in the motor vehicle, when necessary, to ~~((ensure))~~ comply with the staff-to-child ratio ~~((compliance))~~ requirement; and

(5) ~~((The licensee shall ensure))~~ You must ensure that the number of passengers does not exceed the seat belt capacity of the motor vehicle.

(6) You do not need seat belts for buses approved by the Washington state patrol.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-170 What does the department require for parent communication(??)?** (1) ~~((The licensee shall))~~ You must orally:

(a) Explain ~~((to the parent))~~ the center's policies and procedures to the parent;

(b) Orient the parent to the center's philosophy, program, and facilities;

(c) Communicate to the parent issues relating to the child's care and individual practices concerning the child's special needs; and

(d) Encourage parent participation in center activities.

(2) ~~((The licensee shall))~~ You must give the parent the following written policy and procedure information:

(a) Enrollment and admission requirements;

(b) The fee and payment plan;

(c) A typical activity schedule, including hours of operation;

(d) Meals and snacks served, including guidelines on food ~~((bought))~~ brought from the child's home;

(e) Signing in and signing out requirements;

(f) Child abuse reporting law requirements;

(g) Behavior management and discipline;

(h) Nondiscrimination statement;

(i) Religious activities, if any;

(j) Transportation and field trip arrangements;

(k) Policy on homework, study time, and space necessary to accommodate these activities;

(l) Practices concerning an ill child;

(m) Medication management; ~~((and))~~

(n) Medical emergencies;

(o) Statement that the parent has free access during hours of operation; and

(p) Written procedure for supervision of children during transitions.

**AMENDATORY SECTION** (Amending WSR 98-24-052, filed 11/25/98, effective 12/26/98)

**WAC 388-151-180 What staff patterns and qualifications(??) does the department require?** (1) General qualifications. ~~((The licensee,))~~ You, your staff, volunteers, and other persons associated with the operation of the center who ~~((has))~~ have access to the child in care ~~((shall))~~ must:

(a) Be of good character;

(b) Demonstrate the understanding, ability, personality, emotional stability, and physical health suited to meet the cultural, emotional, mental, physical, and social needs of the ~~((child))~~ children in care; and

(c) Not have committed or been convicted of child abuse or any crime involving harm to another person.

(2) Program director. ~~((The licensee shall))~~ You must serve as or employ a director responsible for the overall management of the center's facility and operation. The director ~~((shall))~~ must:

(a) Be twenty-one years of age or older;

(b) Serve as administrator of the center, ensuring compliance with licensing requirements;

(c) Have knowledge of development of school-age children as evidenced by professional references, education, experience, and on-the-job performance;

(d) Have the management and supervisory skills necessary for the proper administration ~~((for))~~ of the center, including:

(i) Record maintenance;

(ii) Financial management; and

(iii) Maintenance of positive relationships with staff, children, parents, and the community.

(e) Employ, provide, or arrange for fulfillment of clerical, accounting, maintenance, transportation, and food service responsibilities so the child care staff is free to concentrate on program implementation and maintaining the required staff-to-child ratio;

(f) Have completed thirty or more college quarter credits or combination of one-third clock hours and two-thirds college credits, in early childhood education/child development,

elementary education, ~~((or possess an equivalent educational background in courses such as))~~ social work, other child-related field, including, but not limited to, art, music, dance, recreation, physical education, education, ~~((music, art,))~~ home economics, psychology, ~~((or))~~ social services, child development associate (CDA), or nutrition;

(g) Have two or more years of successful experience working with school-age children as evidenced by professional references and on-the-job performance;

(h) Have planning, coordination, and supervisory skills to implement a high quality, developmentally appropriate program; and

(i) Have completed one of the following prior to or within the first six months of licensure or employment except as provided in subsection (2)(i) of this section:

(i) Twenty clock hours or two college quarter credits of basic training. ~~((Training shall be approved by))~~ The Washington state training and registry system (STARS) must approve the training; or

(ii) Current ~~((child development associate))~~ CDA ~~((or))~~ or equivalent credential or twelve or more college quarter credits in a child development ~~((, early childhood education, school-age care, elementary education, special education or recreation; or))~~ associate sequence; or

(iii) Forty-five or more college quarter credits in early childhood education, child development, school-age care, elementary education, special education, or recreation; or

(iv) An associate ~~((or))~~ of arts (AA) or associate of applied science (AAS) or higher college degree in early childhood education, child development, school-age care, elementary education, special education, or recreation ~~((;~~

~~((j) Program directors who are already employed or licensed on the effective date of this rule must complete the training required in WAC 388-151-180(2)(h) prior to or within twelve months after the effective date of this rule)).~~

(3) Site coordinator. ~~((The licensee))~~ You may employ a site coordinator responsible for being on site with children, program planning and program implementation. The program director must provide regular supervision of the site coordinator ~~((shall be under the regular supervision of the program director)).~~

(4) The same person may serve as the site coordinator and program director ~~((may be one and the same person))~~ when qualified for both positions. The site coordinator ~~((shall))~~ must:

(a) Be twenty-one years of age or older;

(b) Have completed thirty or more college quarter credits or combination of one-third clock hours and two-thirds college credits in early childhood education/child development, elementary education ~~((, or possess an equivalent educational background in courses such as recreation))~~ social work, other child-related field including, but not limited to, art, music, dance, relevant to school age children, recreation, physical education, education, music, art, psychology, ~~((or))~~ social services, home economics, CDA, or nutrition;

(c) Serve as staff supervisor;

(d) Have demonstrated knowledge in:

(i) Behavior management skills specific to school-age children;

(ii) Program management skills; and

(iii) School-age child activity planning and coordinating skills.

(e) Have a minimum of two years experience working with school-age children, or possess equivalent experience.

(f) Have completed one of the following prior to or within the first six months of licensure or employment ~~((except as provided in subsection (4)(g) of this section)):~~

(i) Twenty clock hours or two college quarter credits of initial training. ~~((Training shall be approved by the Washington state training and registry system))~~ STARS ~~((or))~~ must approve the training; or

(ii) Current ~~((child development associate))~~ CDA ~~((or))~~ or ~~((equivalent credential or))~~ twelve or more college quarter credits in ~~((early childhood education,))~~ child development, ~~((school-age care, elementary education, special education or recreation; or))~~ associate sequence;

(iii) Forty-five or more college quarter credits in early childhood education, child development, school-age care, elementary education, special education, or recreation; or

(iv) An associate of arts (AA) or associate of applied science (AAS) or higher college degree in early childhood education, child development, school-age care, elementary education, special education, or recreation.

~~((g) Site coordinators who are already employed on the effective date of this rule must complete the training required in WAC 388-151-180(4)(f) prior to or within twelve months after the effective date of this rule.))~~

(5) The program director or site coordinator ~~((shall))~~ must normally be on the premises while ~~((the child is))~~ children are in care. If temporarily absent from the center, the director and site coordinator ~~((shall))~~ must leave a competent, designated staff person in charge.

(6) The director and site coordinator may also serve as child care staff when ~~((such))~~ that role does not interfere with the director's or site coordinator's management and supervisory responsibilities.

(7) Center staffing. ~~((The licensee))~~ You may employ a lead school-age child care staff person to be in charge of a child or a group of children. Lead school-age child care staff ~~((shall))~~ must:

(a) Be eighteen years of age or older;

(b) ~~((Possesses))~~ Possess a high school education or equivalent;

(c) Have school-age child development knowledge and experience; and

(d) Have the ability to implement the activity program.

(8) ~~((The licensee may employ))~~ You may use a child care assistant, volunteer, or trainee. The assistant, volunteer, or trainee ~~((shall))~~ must support staff. The school age child care assistant, volunteer, or trainee ~~((shall))~~ must:

(a) Be sixteen years of age or older; and

(b) Care for ~~((the child))~~ children only under direct supervision.

(9) ~~((The licensee shall))~~ You must ensure that you and your program director or site coordinator assigns no person under eighteen years of age ~~((is assigned))~~ sole responsibility for a group of children. You, your program director, or your site coordinator may assign the assistant, eighteen years of age or older, ~~((may be assigned))~~ sole responsibility for a child or group of children for a brief period of time.

(10) ~~((The licensee))~~ You may count the assistant, volunteer, or trainee in the staff-to-child ratio when that person meets staff requirements.

(11) The licensee may utilize youth volunteers fourteen to fifteen years of age. The youth volunteers:

(a) Must not be counted as staff at any time.

(b) Must not count in the staff-child ratio;

(c) Must meet all requirements in WAC 388-151-470(4); and

(d) Must be under the direct supervision of a lead staff person.

(12) The lead staff person must not supervise more than one youth volunteer at one time.

**AMENDATORY SECTION** (Amending WSR 98-24-052, filed 11/25/98, effective 12/26/98)

**WAC 388-151-190 What group size and staff-child ratios(~~(r)~~) must I maintain?** (1) ~~((The licensee shall))~~ You must maintain, at minimum, a 1:15 staff-child ratio and a maximum group size of thirty or fewer children.

(2) ~~((The licensee shall))~~ You must conduct activities for each group in a specific classroom or other defined space within a larger area.

(3) ~~((The licensee shall))~~ You must ensure that a qualified staff person or team of staff supervises each group ~~((is under the supervision of a qualified staff person or team of staff)).~~

(4) The department may approve reasonable variations to group size limitations if ~~((the licensee))~~ you maintain ~~((s))~~ required staff-to-child ratios, dependent on:

(a) Staff qualifications;

(b) Program structure; and

(c) Usable space.

(5) ~~((The licensee shall ensure staff keep each child within continuous visual or auditory range, except when the child uses the toilet))~~ You must provide appropriate supervision and keep the child from harm. The children must be in continuous visual or auditory range, except during transitions, including:

(a) Moving from indoors to outdoors;

(b) Moving from room to room; and

(c) When the child uses the restroom.

(6) You must have a written plan to ensure the children's safety during transitions.

(7) When only one staff person is present, ~~((the licensee shall))~~ you must ensure that a second staff person is readily available in case of an emergency.

~~((7) The licensee shall)~~

(8) You must ensure that each group of children is supervised by a staff person who has completed one of the following prior to or within the first six months of employment ~~((except as provided in subsection (8) of this section)):~~

(a) Twenty clock hours or two college quarter credits of initial training. Training ~~((shall))~~ must be approved by the Washington state training and registry system (STARS); or

(b) Current child development associate (CDA) or equivalent credential or twelve or more college quarter credits in early childhood education, child development, school-

age care, elementary education, special education, or recreation; or

(c) An associate of arts (AA) or associate of applied science (AAS) or higher college degree in early childhood education, child development, school-age care, elementary education, special education, or recreation.

~~((8) Staff persons who are required to complete the training described in WAC 388-151-190(7) and who are already employed on the effective date of this rule must complete the training prior to or within twelve months after the effective date of this rule.))~~

**AMENDATORY SECTION** (Amending WSR 98-24-052, filed 11/25/98, effective 12/26/98)

**WAC 388-151-200 What requirements must I meet for center staff development(~~(, orientation,))~~ and training(~~(s))~~?** (1) ~~((The licensee shall))~~ You must have an orientation system making ~~((the))~~ employees, volunteers, and trainees aware of program policies and practices. ~~((The licensee shall))~~ You must provide staff an orientation including, but not limited to:

(a) Licensing rules required under this chapter;

(b) Goals and philosophy of the center;

(c) Planned daily activities and routines;

(d) Age-appropriate child guidance and behavior management methods;

(e) Child abuse and neglect prevention, detection, and reporting policies and procedures;

(f) Special health and developmental needs of the individual child;

(g) Fire prevention and safety procedures; and

(h) Personnel policies.

(2) ~~((The licensee shall))~~ You must provide or arrange regular training opportunities for the child care staff to:

(a) Promote ongoing employee education;

(b) Enhance practice skills;

(c) Increase cultural awareness; and

(d) Accommodate special health and developmental needs of the individual child.

(3) ~~((The licensee shall))~~ You must conduct periodic staff meetings for planning and coordination purposes.

(4) ~~((The licensee shall))~~ You must ensure that:

(a) A staff person with basic, standard, current first aid and cardiopulmonary resuscitation (CPR) training, or department of health approved training is present at all times while the child is in care; and

(b) Staff's CPR training includes methods appropriate for school-age children in care.

(5) ~~((The licensee shall))~~ You must provide or arrange appropriate education and training for child care staff on the prevention and transmission of human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS).

(6) ~~((The licensee shall))~~ You must ensure that the person preparing full meals for the center has a valid food handler permit.

(7) ~~((The licensee shall))~~ You must ensure that the director, site coordinator and, where the program serves more than



one group of children, at least one staff person for every group of children, complete;

(a) ~~Ten clock hours or one college quarter credit of training annually, approved by Washington state registry and training system (STARS), beginning one year after licensure or employment in ((a)) your licensed child care facility((; complete ten clock hours or one college quarter credit of training approved by Washington state registry and training system (STARS). For those already employed or licensed on the effective date of this rule, the requirement for annual training shall begin one year after the effective date of the rule.))~~; and

(b) For the director and the site coordinator, five of the ten hours of training ~~((shall))~~ must be in program management and administration.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-210 What must my required health care plan((;)) contain?** (1) ~~((The licensee shall))~~ You must maintain current written health policies and procedures for staff orientation and use by staff, and for the parent.

(2) ~~((The licensee shall ensure the))~~ Your health care plan must include~~((s))~~, but is not limited to, information about ~~((the))~~ your center's procedures concerning:

- (a) Communicable disease prevention, reporting, and management;
- (b) Action taken for medical emergencies;
- (c) First aid;
- (d) Care of minor illnesses;
- (e) Medication management;
- (f) General hygiene practices;
- (g) Hand washing practices; and
- (h) Food and food services.

(3) ~~((The licensee shall))~~ You must use the services of an advisory physician, physician's assistant, or registered nurse to assist in the development and approval of the center's health care plan.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-220 What steps must I take to address health supervision and infectious disease prevention((;))?**

(1) Before or on the child's first day of attendance, ~~((the licensee shall))~~ you must have on file a record of immunization status.

(2) Your staff ~~((shall))~~ must observe the child daily for signs of illness. ~~((The licensee shall))~~ You must care for or discharge to the child's home the ill child based on ~~((the center's))~~ your policies concerning ~~((the))~~ ill ~~((child))~~ children.

(3) If a child becomes ill while in care:

- (a) ~~((The licensee shall))~~ You must furnish a separate care area with an appropriate rest surface and bedding, as needed; and
- (b) Your staff ~~((shall))~~ must sanitize equipment the child uses if staff suspects the child has a communicable disease.

(4) ~~((The licensee))~~ You may use the separate care room or area for other purposes when not needed for separation of the child.

(5) Your staff ~~((shall))~~ must ensure that the child washes hands:

- (a) Before the child eats;
- (b) Before the child participates in food activities; and
- (c) After the child's toileting.

(6) Your staff ~~((shall))~~ must follow ~~((the))~~ your center's policies for cleaning and disinfecting the environment.

(7) ~~((The licensee shall))~~ You must have extra clothing available for circumstances arising during outdoor play.

(8) Your staff ~~((shall))~~ must ensure that the ~~((child does))~~ children do not share personal hygiene or grooming items.

(9) You must have on file, upon employment, for each center employee, volunteer, and other person having regular contact with the ~~((child))~~ children in care ~~((shall have))~~ results of a negative tuberculin (TB) ~~((skin))~~ skin test, by the Mantoux method, or results of a chest x-ray~~((; on file upon employment, unless))~~. You need not require the TB test or chest x-ray for an individual if, such a test is against medical advice. The department does not require periodic retesting ((is not required)).

(10) ~~((The licensee shall))~~ You must not permit ~~((the))~~ a person with a reportable communicable disease to be on duty in the center or have contact with the child in care unless a health care provider approves ~~((this))~~ the contact in writing.

(11) Staff ~~((shall))~~ must wash hands:

- (a) After personal toileting;
- (b) After attending to an ill child;
- (c) After nose blowing;
- (d) After smoking; and
- (e) Before serving or preparing food.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-230 What requirements must I meet for medication management((;))?** ~~((The center))~~ You may have a policy of not giving medication to the child in care. If ~~((the))~~ your center's health care plan includes giving medication to the child in care, ~~((the licensee))~~ you:

(1) ~~((shall))~~ Must give medications, prescription and nonprescription, only on the written approval of a parent, person, or agency having authority by court order to approve medical care;

(2) ~~((shall))~~ Must give prescription medications:

- (a) Only as specified on the prescription label; or
- (b) As authorized, in writing, by a physician or other person legally authorized to prescribe medication.

(3) ~~((shall))~~ Must give the following classifications of nonprescription medications, with written parent authorization, only at the dose, duration, and method of administration specified on the manufacturer's label for the age or weight of the child needing the medication:

- (a) Antihistamines;
- (b) Nonaspirin fever reducers/pain relievers;
- (c) Nonnarcotic cough suppressants;
- (d) Decongestants;

(e) Anti-itching ointments or lotions, intended specifically to relieve itching;

(f) Diaper ointments and powders, intended specifically for use in the diaper area of the child; and

(g) Sun screen.

(4) ~~((Shall))~~ Must give other nonprescription medication:

(a) Not included in the categories listed in subsection (3) of this section; or

(b) Taken differently than indicated on the manufacturer's label; or

(c) Lacking labeled instructions, only when disbursement of the nonprescription medication is as required under subsection (4)(a), (b), and (c) of this section:

(i) Authorized, in writing, by a physician; or

(ii) Based on established medical policy approved, in writing, by a physician or other person legally authorized to prescribe medication.

(5) ~~((Shall))~~ Must accept from the child's parent, guardian, or responsible relative only medicine in the original container, labeled with:

(a) The child's first and last names;

(b) The date the prescription was filled; or

(c) The medication's expiration date; and

(d) Legible instructions for administration, such as manufacturer's instructions or prescription label.

(6) ~~((Shall))~~ Must keep medication, refrigerated or non-refrigerated, in an orderly fashion and inaccessible to the child;

(7) ~~((Shall))~~ Must store external medication in a compartment separate from internal medication;

(8) ~~((Shall))~~ Must keep a record of medication disbursed;

(9) ~~((Shall))~~ Must return to the parent or other responsible party, or ~~((shall))~~ must dispose of medications no longer being taken; and

(10) May, at ~~((the licensee's))~~ your option, permit self-administration of medication by a child in care if ~~((the))~~:

(a) The child is physically and mentally capable of properly taking medication without assistance;

(b) ~~((Licensee))~~ You include~~((s))~~ in the child's file a parental or physician's written statement of the child's capacity to take medication ~~((with))~~ ~~((without))~~ assistance; and

(c) ~~((Licensee ensures))~~ You have stored the child's medications and other medical supplies ~~((are stored))~~ so the medications and medical supplies are inaccessible to ~~((another child))~~ other children in care.

**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 Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-240 What nutrition~~((r))~~ requirements must I meet?** (1) ~~((The licensee shall))~~ You must provide food meeting the nutritional needs of the ~~((child))~~ children in care, taking into consideration ~~((the))~~ each child's:

(a) Age and development level;

(b) Cultural background; and

(c) ~~((Handicapping condition))~~ Child's special health care needs, if any.

(2) ~~((The licensee shall))~~ You must provide only pasteurized milk or pasteurized milk products.

(3) ~~((The licensee))~~ You may serve ~~((the))~~ school-age ~~((child))~~ children powdered Grade A milk, provided ~~((the licensee))~~ you complete~~((s))~~ the dry milk mixture, service, and storage in a safe and sanitary manner.

(4) ~~((The licensee))~~ You may furnish ~~((the))~~ a child nutrient concentrates, nutrient supplements, a modified diet, or an allergy diet only with the written permission of the child's health care provider. The licensee ~~((shall))~~ must obtain from the parent or the child's health care provider a written list of foods the child ~~((cannot))~~ must not consume.

(5) ~~((The licensee shall))~~ You must:

(a) Record food and portion sizes planned and served; and

(b) Post menus showing two weeks or more of food variety before repeating menus.

(6) ~~((The licensee))~~ You may make nutritional substitutions of comparable nutrient value to the menu.

(7) ~~((The licensee shall))~~ You must use the following meal pattern to furnish food in age-appropriate servings~~((; providing))~~ to provide the child:

(a) Access to a breakfast, if the child arrives on the premises before 7:00 a.m. ~~((access to a breakfast))~~;

(b) A snack if the child is in care for one to three hours before or after school ~~((a snack))~~; and

(c) Food at intervals not less than two hours and not more than three and one-half hours apart.

(8) ~~((The licensee shall))~~ You must furnish the child in care food ~~((complying))~~ that complies with the meal pattern of the United States Department of Agriculture Child and Adult Care Food Program or the National School Lunch Program.

(9) The ~~((child's))~~ children's snacks ~~((shall))~~ must include one or more dairy or protein source provided daily~~((;))~~ and must contain a minimum of two of the following four components at each snack:

(a) A dairy product;

(b) A protein food;

(c) Bread or bread alternate; or

(d) Fruit or vegetable or juice containing a minimum of fifty percent real juice.

(10) ~~((The licensee shall))~~ You must have available food supplies to supplement food brought from the child's home that is deficient in meeting nutrition requirements~~((brought from the child's home))~~.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-250 What requirements must I meet for kitchen and food service~~((;))~~?** (1) ~~((The licensee shall))~~ You must ensure the proper storage, preparation, and service of food to meet program needs.

(2) ~~((The licensee shall))~~ You must meet food service standards by ensuring that:

(a) The staff person preparing full meals has a valid food handler permit;

(b) The staff person preparing and serving meals washes hands before handling food;

(c) Hand-washing facilities are located in or adjacent to food preparation areas;

(d) Your program stores food (~~(is stored)~~) in a sanitary manner; especially milk, shell-fish, meat, poultry, eggs, and other protein food sources;

(e) Your program stores food requiring refrigeration (~~(is stored)~~) at a temperature no warmer than forty-five degrees Fahrenheit;

(f) Your program stores frozen food (~~(is stored)~~) at a maximum temperature of zero degrees Fahrenheit;

(g) You have equipped your refrigerators and freezers (~~(are equipped)~~) with thermometers and (~~(are)~~) that your staff regularly (~~(cleaned and defrosted)~~) cleans and defrosts your facility's refrigerators and freezers;

(h) Your staff cooks food (~~(is cooked)~~) to correct temperatures;

(i) Your staff washes raw food (~~(is washed)~~) thoroughly with clean running water;

(j) Your staff rapidly cools and refrigerates cooked food to be stored (~~(is rapidly cooled and refrigerated)~~) after preparation;

(k) Your program keeps food (~~(is kept)~~) in original containers or in clean, labeled containers and (~~(stored)~~) stores the food off the floor;

(l) Your staff discards packaged, canned, and bottled food with a past expiration date (~~(is discarded)~~);

(m) Your staff discards food in dented cans or torn packages (~~(is discarded)~~); and

(n) You notify parents when your program serves food containing sulfiting agents (~~(is served, parents are notified)~~).

(3) (~~(The child)~~) Children in care may participate in food preparation as an education activity when:

(a) (~~(The licensee)~~) You make(s) kitchen equipment inaccessible to the (~~(child)~~) children, except during planned and supervised kitchen activities; and

(b) Your staff supervises food preparation activities.

(4) (~~(The licensee shall)~~) You must install and maintain kitchen equipment and clean reusable utensils in a safe and sanitary manner by:

(a) Sanitizing reusable utensils in a dishwasher or through use of a three-compartment dishwashing procedure; and

(b) Using only single-use (~~(of)~~) clean cloths, solely, for wiping food service, preparation, and eating surfaces.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-260 What requirements must I meet for drinking and eating equipment(?)? You must:**

(1) (~~(The licensee shall)~~) Provide (~~(the child)~~) children with single-use cups, individual drinking cups or glasses, or inclined jet-type drinking fountains(~~(-)~~);

(2) (~~(The licensee shall)~~) Prohibit (~~(the)~~) your child care center from using bubbler-type drinking fountains and common drinking cups or glasses(~~(-)~~); and

(3) (~~(The licensee shall)~~) Provide the (~~(child)~~) children with durable eating utensils appropriate in size and shape for the (~~(child)~~) children in care.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-280 What general safety, maintenance, and site(?) requirements must I meet? You must:**

(1) (~~(The licensee shall)~~) Operate the center:

(a) On an environmentally safe site;

(b) In a neighborhood free from (~~(a)~~) conditions detrimental to the (~~(child's)~~) children's welfare; and

(c) In a location accessible to health and emergency service.

(2) (~~(The licensee shall)~~) Ensure that you maintain indoor and outdoor premises (~~(are)~~) in a safe and sanitary condition, free of hazards, and in good repair;

(3) (~~(The licensee shall)~~) Ensure that furniture and equipment (~~(is)~~) are safe, stable, durable, and age-appropriate;

(4) (~~(The licensee shall)~~) Maintain a flashlight or other emergency lighting device in working condition;

(5) (~~(The licensee shall)~~) Finish or cover rough or untreated wood surfaces;

(6) (~~(The licensee shall)~~) Maintain one or more telephones in working order, readily accessible to staff and children;

(7) (~~(The licensee shall)~~) Supply bathrooms and other rooms subject to moisture with washable, moisture-impervious flooring;

(8) (~~(The licensee shall)~~) Ensure staff can gain rapid access in an emergency to a bathroom or other room (~~(the child occupies)~~) children may occupy;

(9) (~~(The licensee shall)~~) Shield light bulbs and tubes in child-accessible areas;

(10) (~~(The licensee shall)~~) Keep the premises free from rodents, fleas, cockroaches, and other insects and pests;

(11) (~~(The licensee shall)~~) Ensure no firearm or other weapon is on the premises;

(12) (~~(The licensee shall)~~) Maintain adequate storage space for play and teaching equipment, supplies, records, and children's possessions and clothing;

(13) (~~(The licensee shall)~~) Safely store or make inaccessible to the (~~(child)~~) children cleaning supplies, toxic substances, paint, poisons, aerosol containers, and items bearing warning labels;

(14) (~~(The licensee shall)~~) Label a container filled from a stock supply to identify contents;

(15) (~~(The licensee shall)~~) Comply with fire safety regulations adopted by the state fire marshal's office.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-290 What must I do to ensure water safety(?) in my facility? (1) (~~(The licensee shall)~~) You must**

**maintain** the following water safety precautions when the (~~(child uses)~~) children in your care use an on-premises swimming pool, wading pool, or natural body of water, or enter(~~(s)~~) the water on a field trip by ensuring:

(a) The on-premises pool or natural body of water is inaccessible to the ~~((child))~~ children when not in use;

(b) During the ~~((child's))~~ children's use of a wading pool, an adult with current CPR training supervises the child at all times; and

(c) During the ~~((child's))~~ children's use of a swimming pool or natural body of water, a certified lifeguard is present at all times, in addition to required staff.

(2) ~~((The licensee shall))~~ You must, on a daily basis, empty and clean portable wading pools, when in use.

(3) ~~((The licensee))~~ You may permit the ~~((child))~~ children to use or access a hot tub, spa tank, or whirlpool only under direct supervision and with written parental permission.

AMENDATORY SECTION (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-310 What first aid supplies((:)) must I have available in my child care center?** (1) ~~((The licensee shall))~~ You must maintain on the premises adequate first aid supplies conforming with ~~((the))~~ your center's first aid policies and procedures.

(2) ~~((The licensee's))~~ Your first aid supplies ~~((shall))~~ must include unexpired syrup of ipecac ~~((which may be administered-)),~~ Your staff may administer syrup of ipecac only on the advice of ~~((the))~~ a physician or the poison control center.

AMENDATORY SECTION (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-320 What requirements must I meet for an outdoor play area((:))?** You must:

(1) ~~((The licensee shall))~~ Provide a safe and equipped outdoor play area of sufficient size to meet the needs of the ~~((child))~~ children in care. The play area must:

- (a) Be reachable by a safe route and method;
- (b) ~~((Promoting))~~ Promote the ~~((child's))~~ children's active play, physical development, and coordination;
- (c) Be free of any dangerous condition and ~~((affording))~~ provide safe child entry and exit; and
- (d) Be adaptable to the child or children with special needs.

(2) ~~((The licensee shall))~~ You must ensure that the center's activity schedule affords the child sufficient daily time to participate actively in outdoor play.

(3) The licensor may accept the playground that is on public school property and has been inspected by the school district or state or local health departments.

AMENDATORY SECTION (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-330 What requirements must I meet for indoor space((:))?** (1) ~~((The))~~ Your school-age child care center ~~((shall))~~ must have adequate, usable space indoors ~~((ensuring))~~ to ensure that children are not crowded. ~~((The licensee shall ensure))~~ You must provide a minimum of thirty-five square feet per child of usable space ~~((is available)).~~

(2) ~~((The school-age child care center shall))~~ Your facility must have an identifiable space of its own during hours of operation, which may include moveable furnishings ~~((and))~~ and equipment.

(3) ~~((The licensee shall))~~ You must arrange indoor space to encourage a variety of developmentally appropriate activities including:

- (a) Interest areas for focused activities;
- (b) Open areas for large motor activities;
- (c) Areas where children can work individually, in small groups, and in large groups; and
- (d) Private spaces where children can rest, play, and work alone or with a friend.

AMENDATORY SECTION (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-340 What are the department's requirements for toilets and hand-washing sinks((:))?** (1) ~~((The licensee shall))~~ You must supply hand-washing sinks and toilets for the ~~((child))~~ children equal to, at minimum, the number the state or local building code requires. You must meet the following minimum ratios ~~((shall be as follows)):~~

- (a) For toilets: 1:100 for boys ~~((:))~~ and 1:35 for girls,
- (b) For urinals: 1:30.

(2) ~~((The licensee shall))~~ You must supply the ~~((child))~~ children with warm, running water for handwashing at a temperature range no less than eighty-five degrees Fahrenheit and no more than one hundred twenty degrees Fahrenheit.

(3) ~~((The licensee shall))~~ You must locate the ~~((child's))~~ children's hand-washing facilities in or adjacent to rooms used for toileting.

(4) ~~((The licensee shall))~~ You must provide toileting privacy for the ~~((child))~~ children.

(5) ~~((The licensee shall))~~ You must ensure that rooms used for toileting are ventilated to the outdoors.

(6) ~~((The licensee shall))~~ You must provide the ~~((child))~~ children with soap and individual towels or other appropriate devices for washing and drying the ~~((child's))~~ children's hands and faces.

AMENDATORY SECTION (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-380 What kind of program atmosphere((:)) must I provide?** You must:

(1) ~~((The licensee shall))~~ Provide a cheerful environment for the ~~((child))~~ children by placing visually stimulating decorations, pictures, or other attractive materials at appropriate heights for the ~~((child))~~ children in care ~~((:))~~;

(2) ~~((The licensee shall))~~ Maintain a safe and developmentally appropriate noise level ~~((:))~~;

(3) ~~((The licensee shall))~~ Locate fixtures and provide lighting intensities promoting visibility and comfort for the ~~((child))~~ children in care ~~((:))~~;

(4) ~~((The licensee shall))~~ Maintain the temperature within the center at sixty-eight degrees Fahrenheit or more ~~((:))~~; and

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(5) ~~((The licensee shall))~~ Regulate the temperature and ventilate the center for the health and comfort of the ~~((child))~~ children in care.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-390 What requirements must I meet regarding nondiscrimination ~~((prohibited))~~?** (1) ~~((The licensee shall))~~ You must comply with federal and state regulatory and statutory requirements, defined under chapter 49.60 RCW, regarding nondiscrimination in employment practices and client services.

(2) Consistent with state and federal laws, ~~((the licensee shall))~~ you must respect and facilitate all rights of the ~~((child))~~ children in care.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-410 What special requirements regarding American Indian children ~~((s))~~ must I meet?** When five percent or more of ~~((the))~~ your center's child enrollment consists of Indian children, ~~((the licensee shall develop))~~ you must, in consultation with the parent, establish a plan to provide social service resources and staff training programs designed to meet the ~~((special))~~ social and cultural needs of such children ~~((through coordination))~~. You may coordinate with tribal, Indian health service, and Bureau of Indian Affairs social service staff and appropriate urban Indian and Alaskan native consultants.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-420 What are my responsibilities regarding child abuse, neglect, and exploitation ~~((s))~~?** ~~((The licensee))~~ You and your staff ~~((shall))~~ must protect the ~~((child))~~ children in care from child abuse, neglect, or exploitation, as required under chapter 26.44 RCW. If you or your staff have reasonable cause to believe that a child has suffered abuse or neglect, you or your staff must report the alleged incident to law enforcement or the department's child protective services (CPS) section in accordance with RCW 26.44.030.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-430 What requirements does the department have regarding prohibited substances ~~((s))~~ and tobacco products?** (1) During operating hours or when ~~((the child is))~~ children are in care, ~~((the licensee,))~~ you, your staff, and volunteers on your center premises or caring for the ~~((child))~~ children off-site ~~((shall))~~ must not be under the influence of, consume, or possess an:

- (a) Alcoholic beverage; or
- (b) Illegal drug.

(2) ~~((The licensee shall))~~ You must prohibit smoking in the center and in ~~((the))~~ motor vehicle when ~~((the licensee~~

~~transports the child. The licensee))~~ you, your staff, or volunteers transport children. You may permit on-premises smoking only outdoors, away from the building, when the ~~((child is))~~ children are not present.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-440 What are the department's limitations ~~((to))~~ regarding persons on premises ~~((s))~~?** (1) During center operating hours or while ~~((the child is))~~ children are in care, only ~~((the licensee,))~~ you, your employees, ~~((or))~~ and your volunteers, or an authorized representative of a governmental agency, school district, or an approved adult related to the child in care ~~((shall))~~ may have unsupervised access to the ~~((child))~~ children in care.

(2) ~~((The licensee shall))~~ You must allow the parent of a child in care unsupervised access only to the parent's own child.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-450 What child records and information ~~((s))~~ must I maintain? ~~((The licensee shall))~~** You must maintain, on the premises, organized and confidential records and information concerning ~~((the))~~ each child in care. ~~((The licensee shall))~~ You must ensure ~~((the))~~ each child's record contains, at a minimum:

(1) Registration data:

- (a) Name, birth date, dates of enrollment and termination, and other identifying information;
- (b) Name, address, and home and business telephone numbers of the parent and other person ~~((to be contacted))~~ for you to contact in case of emergency; and

(c) A completed enrollment application signed by the parent, guardian, or responsible relative.

(2) Authorizations:

(a) Name, address, and telephone number of ~~((another))~~ any other person authorized to remove the child in care from the center;

(b) Written parental consent for transportation provided by the center, including field trips and swimming, when the child participates in these activities. A parent-signed blanket consent form may authorize the child's off-site travel; and

(c) Written parental consent, or court order, for providing medical care and emergency surgery, except for such care authorized by law.

(3) Medical and health data:

(a) Date and kind of illness or injury occurring on the premises including the treatment given by your staff;

(b) Medication given by your staff indicating dosage, date, time, and name of dispensing staff person; and

(c) A health history obtained when ~~((the licensee))~~ you or your staff enrolls the child for care. The history includes:

(i) The date of the child's last physical examination;

(ii) Allergies;

(iii) Special health or developmental problems and other pertinent health information;

- (iv) Name, address, and telephone number of child's health care provider or facility; and
- (v) A record of immunization status.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-460 What program records(†) must I maintain?** ((The licensee shall)) You must maintain the following documentation on the premises:

- (1) The daily attendance record:
  - (a) The parent, or other person authorized by the parent to take the child to or from the center, ((shall)) must sign in the child on arrival and ((shall)) must sign out the child at departure, using a full, legal signature; ((and))
  - (b) When the child leaves the center to attend school or other off-site activity as authorized by the parent, ((the)) your staff person ((shall)) must sign out the child and sign in the child on return to the center; and
  - (c) Signed agreements between a program director and a parent where school-age child is allowed to leave the center on his own, must be verified by signature and dated by the director and parent. Staff may sign a child in/out whose parent has agreed in writing to let the child leave the center.
- (2) A copy of the report sent to the department about ((the)) any illness or injury to the child in care requiring medical treatment or hospitalization;
- (3) The twelve-month record indicating the date and time ((the licensee)) you conducted the required monthly fire evacuation drills;
- (4) A written plan for staff development specifying the content, frequency, and manner of planned training;
- (5) Activity program plan records;
- (6) A list of ((the)) each child's allergies and dietary restrictions, if any;
- (7) Any incident involving the use of physical restraint;
- (8) A record of medication your staff gives to ((the)) any child; and
- (9) A record of accidents and injuries.
- (10) Personnel records as described in WAC 388-151-470(4).

**AMENDATORY SECTION** (Amending WSR 98-24-052, filed 11/25/98, effective 12/26/98)

**WAC 388-151-470 What personnel policies and records(†) must I develop and maintain?** (1) Each employee and volunteer having unsupervised or regular access to the child in care ((shall)) must complete and submit to ((the licensee)) you or your director by the date of hire:

- (a) An application for employment on a department-prescribed form or its equivalent; and
- (b) A criminal history and background inquiry form:
  - (i) ((The licensee shall)) You must submit this form to the department for ((the)) each employee and volunteer, within seven calendar days of the employee's first day of employment((, permitting)) so that the department may complete a criminal and background history check; and

(ii) The department ((shall)) must discuss the inquiry information with ((the licensee)) you or your director, when applicable.

(c) A Federal Bureau of Investigation (FBI) check, for you or any employee, or volunteer, if you, the employee, or volunteer has lived in the state for less than three years.

(2) Each employee serving as a program director, site coordinator, or staff person required to complete training under WAC ((388-151-190(7) shall)) 388-151-190(8) must complete and submit ((to the licensee or) a Washington state training and registry system (STARS) profile form to you or your director by the date of hire ((a Washington state training and registry system (STARS) profile form)). ((The licensee shall)) You must submit this form to ((the Washington state training and registry system)) STARS within seven calendar days of the employee's first day of employment, ((permitting tracking of)) so that the department may track the employee's compliance with training requirements.

(3) ((The licensee shall)) You must have written personnel policies describing staff benefits, if any, duties, qualifications, grievance procedures, pay dates, and nondiscrimination policies.

(4) ((The licensee shall)) You must maintain on the premises a personnel record keeping system, ((having on)) including a file for ((the licensee,) you and each staff person(;) and volunteer containing:

- (a) An employment application including work and education history;
- (b) Documentation of criminal history and background inquiry form submission, or FBI fingerprint check, if applicable;
- (c) A record of Mantoux method tuberculin skin test results, x-ray, or an exemption to the skin test or x-ray; -
- (d) Documentation on HIV/AIDS education and training;
- (e) A record of participation in staff development training;
- (f) Documentation of orientation program completion;
- (g) Documentation of a valid food handler permit, when applicable;
- (h) Documentation of current first aid and CPR training, when applicable; and
- (i) Documentation of basic and annual training required under WAC 388-151-180(2)(i) and (4)(f), 388-151-190((7))(8) and 388-151-200(7).

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-480 What requirements must I meet for reporting of death, injury, illness, epidemic, or child abuse(†)?** ((The licensee)) You or your staff ((shall)) must report immediately:

- (1) A death, serious injury requiring medical treatment, or illness requiring hospitalization of a child in care, by telephone and in writing, to the child's parent and the department;
- (2) An instance when ((the licensee or)) you or your staff has reason to suspect the occurrence of physical, sexual, or emotional child abuse, child neglect, or child exploitation as

required under chapter 26.44 RCW, by telephone, to child protective services or local law enforcement; and

(3) An occurrence of food poisoning or communicable disease, as required by the state board of health, by telephone, to the local public health department.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-490** (~~(Reporting of)~~) **Under what circumstances must I report circumstantial changes(+) to the department?** A school-age child care center license is valid only for the address, person, and organization named on the license. (~~(The licensee shall)~~) **You must** promptly report to the department a major change affecting ~~((the))~~ **your** center's classification, delivery of safe, developmentally appropriate services, or continued eligibility for licensure. A major change includes the:

- (1) Center's address, location, space, or phone number;
- (2) Maximum number and ages of children served as compared to current license specifications;
- (3) Change of ownership, chief executive officer, licensee, director, or site coordinator;
- (4) Name of the licensed corporation or name by which the center is commonly known or changes in the center's articles of incorporation and bylaws;
- (5) Occurrence of a fire, major structural change, or damage to the premises; and
- (6) Plans for major remodeling of the center including planned use of space not previously department-approved.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-500** (~~(Posting requirements)~~) **What informational items must I post in my center?** (1) (~~(The licensee shall)~~) **You must** post the following items, clearly visible to the parents of children in care and your staff:

- (a) The center's child care license issued under this chapter;
  - (b) A list of all staff names;
  - (c) A typical activity schedule including operating hours;
  - (d) Food menus;
  - (e) Evacuation plans and procedures including a diagram of exiting routes; and
  - (f) Emergency telephone numbers, including 911 and local law enforcement, highlighted and posted by the telephone with the center's address.
- (2) For ~~((the))~~ **your** staff, ~~((the licensee shall))~~ **you must** post:
- (a) Dietary restrictions for particular children; and
  - (b) Handwashing practices.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-151-050

Waivers.

**WSR 01-02-075**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed December 29, 2000, 2:25 p.m.]

Date of Adoption: December 29, 2000.

Purpose: To correct Medical Assistance Administration (MAA) rules that contain cross-references to rules that have been renumbered or repealed and written into new chapters. MAA recently reorganized and rewrote most of its rules so they are located in one area of Title 388 WAC. In doing so, some cross-references to rules are now incorrect; this amendment updates those cross-references so users may be referred to the correct rule.

Citation of Existing Rules Affected by this Order: Amending WAC 388-539-0550, 388-545-300, 388-545-500, 388-545-700, 388-550-1100, 388-550-1400, 388-550-1700, 388-550-2200, 388-550-6700, 388-555-1150, 388-555-1200, and 388-556-0400.

Statutory Authority for Adoption: RCW 74.08.090.

Adopted under notice filed as WSR 00-20-096 on October 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 0, Amended 12, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 12, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

December 29, 2000

Bonita H. Jacques, Chief  
Office of Legal Affairs

**AMENDATORY SECTION** (Amending Order 3088 [WSR 00-11-183], filed 5/24/00, effective 5/24/00)

**WAC 388-539-0550 Payment—Coordinated community aids service alternatives (CCSA) program.** (1) The department shall establish payment rates for CCASA program services as defined under WAC ~~((388-86-018))~~ 388-539-0500.

(2) The department shall pay for services after the central authorization unit evaluates the recipient's application for medical appropriateness and the department of health has approved a plan of care.

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

**AMENDATORY SECTION** (Amending WSR 99-16-068, filed 8/2/99, effective 9/2/99)

**WAC 388-545-300 Occupational therapy.** (1) The following providers are eligible to enroll with medical assistance administration (MAA) to provide occupational therapy services:

- (a) A licensed occupational therapist;
- (b) A licensed occupational therapy assistant supervised by a licensed occupational therapist; and
- (c) An occupational therapy aide, in schools, trained and supervised by a licensed occupational therapist.

(2) Clients in the following MAA programs are eligible to receive occupational therapy services described in this chapter:

- (a) Categorically needy;
- (b) Children's health;
- (c) General assistance unemployable (within Washington state or border areas only);
- (d) Alcoholism and drug addiction treatment and support act (ADATSA) (within Washington state or border areas only);
- (e) Medically indigent program for emergency hospital-based services only; or
- (f) Medically needy program only when the client is either:
  - (i) Twenty years of age or younger and referred by a screening provider under the early and periodic screening, diagnosis and treatment program (healthy kids program) as described in chapter 388-534 WAC ((388-86-027)); or
  - (ii) Receiving home health care services as described in ((WAC 388-86-045)) chapter 388-551 WAC, subchapter II.
- (3) Occupational therapy services received by MAA eligible clients must be provided:
  - (a) As part of an outpatient treatment program for adults and children;
  - (b) By a home health agency as described under ((WAC 388-86-045)) chapter 388-551 WAC, subchapter II;
  - (c) As part of the physical medicine and rehabilitation (PM&R) program as described in WAC ((388-86-112)) 388-550-2551;
  - (d) By a neurodevelopmental center;
  - (e) By a school district or educational service district as part of an individual education program or individualized family service plan as described in WAC ((388-86-022)) 388-537-0100; or
  - (f) When prescribed by a provider for clients age twenty-one or older. The therapy must:
    - (i) Prevent the need for hospitalization or nursing home care;
    - (ii) Assist a client in becoming employable;
    - (iii) Assist a client who suffers from severe motor disabilities to obtain a greater degree of self-care or independence; or
    - (iv) Be a part of a treatment program intended to restore normal function of a body part following injury, surgery, or prolonged immobilization.
- (4) MAA pays only for covered occupational therapy services listed in this section when they are:

- (a) Within the scope of an eligible client's medical care program;
- (b) Medically necessary, when prescribed by a provider; and
- (c) Begun within thirty days of the date prescribed.
- (5) MAA covers the following occupational therapy services per client, per calendar year:
  - (a) Unlimited occupational therapy program visits for clients twenty years of age or younger;
  - (b) One occupational therapy evaluation. The evaluation is in addition to the twelve program visits allowed per year;
  - (c) Two durable medical equipment needs assessments. The assessments are in addition to the twelve program visits allowed per year;
  - (d) Twelve occupational therapy program visits;
  - (e) Twenty-four additional outpatient occupational therapy program visits when the diagnosis is any of the following:
    - (i) A medically necessary condition for developmentally delayed clients;
    - (ii) Surgeries involving extremities, including:
      - (A) Fractures; or
      - (B) Open wounds with tendon involvement;
    - (iii) Intracranial injuries;
    - (iv) Burns;
    - (v) Traumatic injuries;
    - (f) Twenty-four additional occupational therapy program visits following a completed and approved inpatient PM&R program. In this case, the client no longer needs nursing services but continues to require specialized outpatient therapy for any of the following:
      - (i) Traumatic brain injury (TBI);
      - (ii) Spinal cord injury (paraplegia and quadriplegia);
      - (iii) Recent or recurrent stroke;
      - (iv) Restoration of the levels of function due to secondary illness or loss from multiple sclerosis (MS);
      - (v) Amyotrophic lateral sclerosis (ALS);
      - (vi) Cerebral palsy (CP);
      - (vii) Extensive severe burns;
      - (viii) Skin flaps for sacral decubitus for quads only;
      - (ix) Bilateral limb loss; or
      - (x) Acute, infective polyneuritis (Guillain-Barre' syndrome).
  - (g) Additional medically necessary occupational therapy services, regardless of the diagnosis, must be approved by MAA.
  - (6) MAA will pay for one visit to instruct in the application of transcutaneous neurostimulator (TENS), per client, per lifetime.
  - (7) MAA does not cover occupational therapy services that are included as part of the reimbursement for other treatment programs. This includes, but is not limited to, hospital inpatient and nursing facility services.

**AMENDATORY SECTION** (Amending WSR 00-04-019, filed 1/24/00, effective 2/24/00)

**WAC 388-545-500 Physical therapy.** (1) The following providers are eligible to provide physical therapy services:



- (a) A licensed physical therapist or physiatrist; or
- (b) A physical therapist assistant supervised by a licensed physical therapist.

(2) Clients in the following MAA programs are eligible to receive physical therapy services described in this chapter:

- (a) Categorically needy (CN);
- (b) Children's health;
- (c) General assistance-unemployable (GA-U) (within Washington state or border areas only);
- (d) Alcoholism and drug addiction treatment and support act (ADATSA) (within Washington state or border areas only);
- (e) Medically indigent program (MIP) for emergency hospital-based services only; or
- (f) Medically needy program (MNP) only when the client is either:

(i) Twenty years of age or younger and referred under the early and periodic screening, diagnosis and treatment program (EPSDT/healthy kids program) as described in WAC 388-86-027; or

(ii) Receiving home health care services as described in chapter 388-551 WAC.

(3) Physical therapy services that MAA eligible clients receive must be provided as part of an outpatient treatment program:

- (a) In an office, home, or outpatient hospital setting;
- (b) By a home health agency as described in chapter 388-551 WAC;
- (c) As part of the acute physical medicine and rehabilitation (acute PM&R) program as described in the acute PM&R subchapter under chapter 388-550 WAC;
- (d) By a neurodevelopmental center;
- (e) By a school district or educational service district as part of an individual education or individualized family service plan as described in WAC ((388-86-022)) 388-537-0100; or

(f) For disabled children, age two and younger, in natural environments including the home and community settings in which children without disabilities participate, to the maximum extent appropriate to the needs of the child.

(4) MAA pays only for covered physical therapy services listed in this section when they are:

- (a) Within the scope of an eligible client's medical care program;
- (b) Medically necessary and ordered by a physician, physician's assistant (PA), or an advanced registered nurse practitioner (ARNP);
- (c) Begun within thirty days of the date ordered;
- (d) For conditions which are the result of injuries and/or medically recognized diseases and defects; and
- (e) Within accepted physical therapy standards.

(5) Providers must document in a client's medical file that physical therapy services provided to clients age twenty-one and older are medically necessary. Such documentation may include justification that physical therapy services:

- (a) Prevent the need for hospitalization or nursing home care;
- (b) Assist a client in becoming employable;

(c) Assist a client who suffers from severe motor disabilities to obtain a greater degree of self-care or independence; or

(d) Are part of a treatment program intended to restore normal function of a body part following injury, surgery, or prolonged immobilization.

(6) MAA determines physical therapy program units as follows:

(a) Each fifteen minutes of timed procedure code equals one unit; and

(b) Each nontimed procedure code equals one unit, regardless of how long the procedure takes.

(7) MAA does not limit coverage for physical therapy services listed in subsections (8) through (10) of this section if the client is twenty years of age or younger.

(8) MAA covers, without requiring prior authorization, the following ordered physical therapy services per client, per diagnosis, per calendar year, for clients twenty-one years of age and older:

(a) One physical therapy evaluation. The evaluation is in addition to the forty-eight program units allowed per year;

(b) Forty-eight physical therapy program units;

(c) Ninety-six additional outpatient physical therapy program units when the diagnosis is any of the following:

(i) A medically necessary condition for developmentally delayed clients;

(ii) Surgeries involving extremities, including:

(A) Fractures; or

(B) Open wounds with tendon involvement.

(iii) Intracranial injuries;

(iv) Burns;

(v) Traumatic injuries;

(vi) Meningomyelocele;

(vii) Down's syndrome;

(viii) Cerebral palsy; or

(ix) Symptoms involving nervous and musculoskeletal systems and lack of coordination;

(d) Two durable medical equipment (DME) needs assessments. The assessments are in addition to the forty-eight physical therapy program units allowed per year. Two program units are allowed per DME needs assessment; and

(e) One wheelchair needs assessment in addition to the two durable medical needs assessments. The assessment is in addition to the forty-eight physical therapy program units allowed per year. Four program units are allowed per wheelchair needs assessment.

(f) The following services are allowed, per day, in addition to the forty-eight physical therapy program units allowed per year:

(i) Two program units for orthotics fitting and training of upper and/or lower extremities.

(ii) Two program units for checkout for orthotic/prosthetic use.

(iii) One muscle testing procedure. Muscle testing procedures cannot be billed in combination with each other.

(g) Ninety-six additional physical therapy program units are allowed following a completed and approved inpatient acute PM&R program. In this case, the client no longer needs nursing services but continues to require specialized outpatient physical therapy for any of the following:

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- (i) Traumatic brain injury (TBI);
- (ii) Spinal cord injury (paraplegia and quadriplegia);
- (iii) Recent or recurrent stroke;
- (iv) Restoration of the levels of functions due to secondary illness or loss from multiple sclerosis (MS);
- (v) Amyotrophic lateral sclerosis (ALS);
- (vi) Cerebral palsy (CP);
- (vii) Extensive severe burns;
- (viii) Skin flaps for sacral decubitus for quadriplegics only;
- (ix) Bilateral limb loss;
- (x) Open wound of lower limb; or
- (xi) Acute, infective polyneuritis (Guillain-Barre' syndrome).

(9) For clients age twenty-one and older, MAA covers physical therapy services which exceed the limitations established in subsection (8) of this section if the provider requests prior authorization and MAA approves the request.

(10) MAA will pay for one visit to instruct in the application of transcutaneous neurostimulator (TENS) per client, per lifetime.

(11) Duplicate services for occupational therapy and physical therapy are not allowed for the same client when both providers are performing the same or similar procedure(s).

(12) MAA does not cover physical therapy services that are included as part of the reimbursement for other treatment programs. This includes, but is not limited to, hospital inpatient and nursing facility services.

(13) MAA does not cover physical therapy services performed by a physical therapist in an outpatient hospital setting when the physical therapist is not employed by the hospital. Reimbursement for services must be billed by the hospital.

**AMENDATORY SECTION** (Amending WSR 99-16-071, filed 8/2/99, effective 9/2/99)

**WAC 388-545-700 Speech/audiology services.** (1)

The following providers are eligible to enroll with medical assistance administration (MAA) to provide, and be reimbursed for, speech/audiology services:

- (a) A speech-language pathologist who has been granted a certificate of clinical competence by the American Speech, Hearing and Language Association;
- (b) A speech-language pathologist who has completed the equivalent educational and work experience necessary for such a certificate;
- (c) An audiologist who is appropriately licensed or registered to perform audiology services within their state of residence; and
- (d) School districts or educational service districts. Services must be noted in the client's individual educational program or individualized family service plan as described under WAC ((388-86-022)) 388-537-0100.

(2) Clients in the following MAA programs are eligible to receive speech/audiology services described in this chapter:

- (a) Categorically needy, children's health, general assistance unemployable, and alcoholism and drug addiction

treatment and support act (ADATSA) programs within Washington state or border areas only; or

(b) Medically needy program only when the client is either:

- (i) Twenty years of age or under; or
- (ii) Receiving home health care services as described under ((WAC 388-86-045)) chapter 388-551 WAC, subchapter II;

(c) Medically indigent program only for emergency hospital-based services.

(3) MAA pays only for covered speech/audiology services listed in this section when they are:

(a) Within the scope of an eligible client's medical care program;

(b) For conditions which are the result of medically recognized diseases and defects; and

(c) Medically necessary, as determined by a health professional.

(4) The following speech/audiology services are covered per client, per calendar year, per provider:

(a) Unlimited speech/audiology program visits for clients twenty years of age and younger;

(b) One medical diagnostic evaluation for clients twenty-one years of age and older. The medical diagnostic evaluation is in addition to the twelve program visits allowed per year;

(c) One second medical diagnostic evaluation at the time of discharge for any of the following:

- (i) Anoxic brain damage;
- (ii) Acute, ill-defined, cerebrovascular disease;
- (iii) Subarachnoid, subdural, and extradural hemorrhage following injury; or
- (iv) Intracranial injury of other and unspecified nature;
- (d) Twelve speech/audiology program visits for clients twenty-one years of age and older;

(e) Twenty-four additional speech/audiology visits if the speech/audiology service is for any of the following:

- (i) Medically necessary conditions for developmentally delayed clients;
- (ii) Neurofibromatosis;
- (iii) Severe oral or motor dyspraxia;
- (iv) Amyotrophic lateral sclerosis (ALS);
- (v) Multiple sclerosis;
- (vi) Cerebral palsy;
- (vii) Quadriplegia;
- (viii) Acute, infective polyneuritis (Guillain-Barre' syndrome);
- (ix) Acute, but ill-defined, cerebrovascular disease;
- (x) Meningocele;
- (xi) Cleft palate and cleft lip;
- (xii) Down's syndrome;
- (xiii) Lack of coordination;
- (xiv) Severe aphasia;
- (xv) Severe dysphagia;
- (xvi) Fracture of the:
  - (A) Vault or base of the skull;
  - (B) Multiple fracture involving skull or face with other bones;
  - (C) Cervical column;
  - (D) Larynx and trachea; or

- (E) Other and unqualified skull fractures;
  - (xvii) Head injuries as follows:
    - (A) Cerebral laceration and contusion;
    - (B) Subarachnoid, subdural, and extradural hemorrhage following injury;
    - (C) Other and unspecified intracranial hemorrhage following injury;
    - (D) Injury to blood vessels of the head and neck; or
    - (E) Intracranial injury of other second unspecified nature;
  - (xviii) Burns of:
    - (A) The face, head, and neck, when severe;
    - (B) Multiple, specified sites; or
    - (C) Internal organs;
  - (xix) Cervical spinal cord injury without evidence of spinal bone injury; or
  - (xx) Other speech disturbances (e.g., severe dysarthria).
- (f) Additional medically necessary speech/audiology program visits beyond the initial twelve visits and additional twenty-four visits for clients twenty-one years of age and older if approved by MAA.
- (5) MAA limits:
  - (a) Caloric vestibular testing to four units for each ear, and
  - (b) Sinusoidal vertical axis rotational testing to three units for each direction.
  - (6) MAA does not cover speech/audiology services that are included as part of the reimbursement for other treatment programs. This includes, but is not limited to, hospital inpatient and nursing facility services.

**AMENDATORY SECTION** (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

**WAC 388-550-1100 Hospital coverage.** (1) Admission of a medical care client to a hospital shall be covered only when the admission is requested by the client's attending physician. For nonemergent hospital admissions, "attending physician" shall mean the client's primary care provider, or the primary provider of care to the patient at the time of hospitalization. For emergent admissions, "attending physician" shall mean the staff member who has hospital privileges who evaluates the client's medical condition upon the client's arrival at the hospital.

(2) In areas where the choice of hospitals is limited by managed care or selective contracting, the department shall not be responsible for payment under fee-for-service for hospital care and/or services:

(a) Provided to managed care clients enrolled in the department's managed care plan, unless the services are excluded from the health carrier's capitation contract with the department and are covered under the medical assistance program; or

(b) Received by a medical care client from a nonparticipating hospital in a selective contracting area (SCA) unless exclusions in WACs 388-550-4600 and 388-550-4700 apply.

(3) The department shall provide chemical-dependent pregnant Medicaid clients up to twenty-six days of inpatient hospital care for hospital-based detoxification, medical stabilization, and drug treatment when:

- (a) An alcohol, drug addiction and treatment support act assessment center verifies the need for the inpatient care; and
- (b) The hospital chemical dependency treatment unit is certified by the division of alcohol and substance abuse.

See WAC 388-550-6250 for outpatient hospital services for chemical-dependent pregnant Medicaid clients.

(4) The department shall cover medically necessary services provided to eligible clients in a hospital setting for the care or treatment of teeth, jaws, or structures directly supporting the teeth:

- (a) If the procedure requires hospitalization; and
- (b) A physician or dentist gives or directly supervises such services.

(5) The department shall pay hospitals for services provided in special care units when the provisions of WAC 388-550-2900 (9)(c) are met.

(6) All services shall be subject to review and approval as stated in WAC ((388-87-025)) 388-501-0050.

(7) For inpatient psychiatric admissions, whether voluntary or involuntary, see chapter 246-318 WAC.

**AMENDATORY SECTION** (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

**WAC 388-550-1400 Covered revenue codes for hospital services.** (1) The department shall cover the following revenue code categories for both inpatient and outpatient hospitalizations:

- (a) "Pharmacy," except that:
  - (i) Subcategories "take-home drugs," "experimental drugs," and "other pharmacy" are not covered; and
  - (ii) Subcategory "nonprescription" is covered for inpatients only;
- (b) "Intravenous (IV) therapy," except subcategory "other IV therapy";
- (c) "Medical/surgical supplies and devices," except for the following subcategories:
  - (i) "Take home supplies";
  - (ii) "Prosthetic devices";
  - (iii) "Oxygen - take home"; and
  - (iv) "Other supplies/devices."
- (d) "Oncology," except subcategory "other oncology";
- (e) "Respiratory services," except subcategory "other respiratory services";
- (f) Subcategories "general classification" and "minor surgery" under the "operating room services" category;
- (g) "Anesthesia," except subcategories "acupuncture" and "other anesthesia";
- (h) "Blood storage and processing," except subcategory "other blood storage and processing";
- (i) "Other imaging services," except subcategory "other image services";
- (j) "Emergency room," except subcategory "other emergency room";
- (k) "Pulmonary function," except subcategory "other pulmonary function";
- (l) "Cardiology," except subcategory "other cardiology";
- (m) "Magnetic resonance imaging (MRI)," except subcategory "other MRI";
- (n) "Cast room," except subcategory "other cast room";

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- (o) "Recovery room," except subcategory "other recovery room";
- (p) "Labor room/delivery," except for subcategories "circumcision" and "other labor room/delivery";
- (q) "EKG/ECG (electrocardiogram)," except subcategory "other EKG/ECG";
- (r) "EEG (electroencephalogram)," except subcategory "other EEG";
- (s) "Gastrointestinal services," except subcategory "other gastroenteritis";
- (t) "Treatment or observation room," except subcategory "other treatment room";
- (u) "Lithotripsy," except subcategory "other lithotripsy";

and

- (v) "Organ acquisition," except for subcategories "unknown donor" and "other organ."

(2) Except for certain services, such as inpatient hospice services covered by MAA pursuant to other rules, the department shall cover the following revenue code categories and/or subcategories for inpatient hospitalizations only:

- (a) "Room and board - private, medical, or general," except subcategory "hospice";
- (b) "Semi-private room and board" (two to four beds), except subcategory "hospice";
- (c) "Nursery for newborns and premature babies";
- (d) "Intensive care," except subcategory "post-ICU";
- (e) "Coronary care," except subcategory "post-CCU";
- (f) "Laboratory," except subcategory "renal patient (home)";
- (g) "Laboratory pathological";
- (h) "Radiology," both "diagnostic" and "therapeutic";
- (i) "Nuclear medicine";
- (j) "Physical therapy," "occupational therapy," and "speech-language therapy";
- (k) "CT (computed tomographic) scans";
- (l) "Operating room services," subcategories "organ transplant other than kidney" and "kidney transplant only";
- (m) "Clinic," subcategory "chronic pain center" only;
- (n) "Ambulance," subcategory "neonatal ambulance services (support crews)" only;
- (o) "Other donor bank" category, except that subcategories "peripheral blood stem cell harvesting" and "reinfusion" are limited only to facilities approved by the medical assistance administration (MAA).

In addition to specifically excluded subcategories, the subcategory "other" in each category shall not be covered.

(3) Except for certain services, such as inpatient hospice services covered by MAA pursuant to other rules, the department shall cover the following revenue code categories for outpatient hospital services only:

- (a) "Ambulatory surgical care";
- (b) "Outpatient services";
- (c) Subcategories "general classification" and "dental clinic," under "clinic";
- (d) Subcategory "rural health clinic," under "free-standing clinic";
- (e) "Drugs requiring specific identification," except covered only for certified kidney centers;
- (f) "Hospice services";
- (g) "Respite care";

- (h) "Inpatient renal dialysis";
- (i) "Hemodialysis - outpatient or home";
- (j) "Peritoneal dialysis - outpatient or home";
- (k) "Continuous ambulatory peritoneal dialysis - outpatient or home";
- (l) "Continuous cycling peritoneal dialysis - outpatient or home";
- (m) "Miscellaneous dialysis";
- (n) Subcategories "education/training" and "weight loss," under the "other therapeutic services" category, except limited to facilities approved by MAA.

In addition to specifically excluded subcategories, the subcategory "other" in each category shall not be covered.

(4) The department shall cover the following revenue code categories and/or subcategories subject to the following specific limitations:

(a) The "private (deluxe)" and "room and board - ward" categories shall be reimbursed at the semi-private hospital room rates.

(b) All inpatient psychiatric services shall be subject to the policies and procedures of the mental health division, and reimbursed only to department-approved psychiatric facilities. See chapter 246-318 WAC. Inpatient psychiatric revenue codes include, but are not limited to:

- (i) The subcategory "psychiatric" under all "room and board" categories;
- (ii) The subcategory "psychiatric" under the "intensive care" category;
- (iii) The "psychiatric/psychological treatments" category; and
- (iv) The "psychiatric/psychological services" category.

(c) The department shall reimburse the subcategory "detoxification" under all room and board categories only to detoxification facilities approved by the division of alcohol and substance abuse.

(d) The subcategory "rehabilitation" under all "room and board" categories shall be reimbursed only to MAA-approved rehabilitation facilities.

(e) Only the subcategories "chemical-using pregnant women" and "administrative days" shall be covered in the "other room and board" category.

(f) Subcategory "nonprescription drugs" under the category "pharmacy" shall be covered for inpatient hospitalizations only. See WAC 388-550-1400 (1)(a)(ii). Certain exemptions apply for pregnant women as described in WAC ~~((388-86-024(2)(e)))~~ 388-530-1150 (1)(d)(ii). For coverage of nonprescription drugs, see WAC 388-530-110 and 388-530-1150.

(g) The subcategories "renal patient (home)" and "non-routine dialysis" under category "laboratory" shall be reimbursed in the outpatient setting only to Medicare-certified kidney centers.

(h) Subcategory "chronic pain center" under the "clinic" category shall be reimbursed only to MAA-approved chronic pain treatment facilities.

(i) Only the subcategory "neonatal ambulance services (support crews)" under the "ambulance" category shall be covered, and only for inpatient hospitalizations.

(j) The category "drugs requiring specific identification" shall be reimbursed only for outpatients and only to Medicare-approved kidney centers.

(k) Subcategories "education/training" and "weight loss," under the "other therapeutic service" category, shall be reimbursed only to MAA-approved facilities.

**AMENDATORY SECTION** (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

**WAC 388-550-1700 Hospital services—Prior approval.** (1) Providers of hospital-related services to clients not enrolled with the department's managed care carriers shall obtain prior approval from the medical assistance administration (MAA) for hospital services requiring prior approval. For inpatient psychiatric admissions and inpatient treatment for alcohol and other substance abuse, see chapter 246-318 and 246-326 WAC respectively.

(2) The department shall require that for medical care clients not enrolled with the department's managed care carriers, providers receive prior approval from the department for the following hospital-related services:

(a) All nonemergent admissions to or planned inpatient hospital surgeries in nonparticipating hospitals in selective contracting areas;

(b) Inpatient detoxification, medical stabilization, and drug treatment for a pregnant Medicaid client as described under WAC 388-550-1100(3);

(c) Cataract surgery that does not meet requirements in WAC ((388-86-030)) 388-544-0550;

(d) The following surgical procedures, regardless of the diagnosis or place of service:

(i) Hysterectomies for clients forty-four years and younger;

(ii) Reduction mammoplasty; and

(iii) Surgical bladder repair.

(e) All physical medicine and rehabilitation (PM&R) inpatient hospital stays, even when provided by MAA-approved PM&R contract facilities (see WAC 388-550-2300);

(f) All outpatient magnetic resonance imaging and magnetic resonance angiography procedures;

(g) All nonemergent inpatient hospital transfers (see WAC 388-550-3600);

(h) All out-of-state non-emergent hospital stays;

(i) Hospital-related services as described in WAC 388-550-1800 when not provided in an MAA-approved facility; and

(j) Services in excess of the department's established limits.

(3) The department shall inform providers which diagnosis codes from the International Classification of Diseases, 9th Revision, Clinical Modification and procedure codes from physicians' current procedural terminology require prior authorization for nonemergent hospital admissions.

(4) When a client's hospitalization exceeds the number of days allowed by WAC 388-550-4300(2):

(a) The hospital shall, within sixty days after discharge, submit to MAA a request for authorization of the extra days

with adequate medical justification, to include at a minimum the following:

(i) History and physical examination;

(ii) Social history;

(iii) Progress notes and doctor's orders for the entire length of stay;

(iv) Treatment plan/critical pathway; and

(v) Discharge summary.

(b) The department shall approve or deny a length of stay extension request within fifteen working days of receiving the request.

(5) The department shall require prior approval for out-of-state hospital admissions of clients not enrolled with department's managed care carriers, except for emergent hospitalizations. The department shall inform providers which codes from the current revision of ICD-9CM are designated as emergent diagnosis codes. The nature of the client's emergent medical condition must be fully documented in the client's hospital's records.

(6) The department shall not reimburse ambulance providers for ambulance transports in cases involving hospital transfers without prior authorization by the department.

(7) The department shall require that providers receive prior approval from the department for medical transportation to out-of-state treatment programs or services authorized by the department for clients not enrolled with the department's managed care carriers.

**AMENDATORY SECTION** (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

**WAC 388-550-2200 Transplant requirements—COE.** (1) The department shall measure the effectiveness of transplant centers of excellence (COE) using the performance criteria in this section. Unless otherwise waived by the department, the department shall apply these criteria to a facility during both initial and periodic evaluations for designation as a transplant COE. The COE performance criteria shall include, but not be limited to:

(a) Meeting annual volume requirements for the specific transplant procedures for which approved;

(b) Patient survival rates; and

(c) Relative cost per case.

(2) A transplant COE shall meet or exceed annually the following applicable volume criteria for the particular transplant procedures performed at the facility, except for cornea transplants which do not have established minimum volume requirements. Annual volume requirements for transplant centers of excellence include:

(a) Twelve or more heart transplants;

(b) Ten or more lung transplants;

(c) Ten or more heart-lung transplants;

(d) Twelve or more liver transplants;

(e) Twenty-five or more kidney transplants;

(f) Eighteen or more pancreas transplants;

(g) Eighteen or more kidney-pancreas transplants;

(h) Ten or more bone marrow transplants; and

(i) Ten or more peripheral stem cell (PSC) transplants.

Dual-organ procedures may be counted once under each organ and the combined procedure.

(3) A transplant facility within the state that fails to meet the volume requirements in subsection (1) of this section may submit a written request to the department for conditional approval as a transplant center of excellence. The department shall consider the minimum volume requirement met when the requestor submits an approved certificate of need for transplant services from the state department of health.

(4) An in-state facility granted conditional approval by the department as a transplant center of excellence shall meet the department's criteria, as established in this chapter, within one year of the conditional approval. The department shall automatically revoke such conditional approval for any facility which fails to meet the department's published criteria within the allotted one year period, unless:

(a) The facility submits a written request for extension of the conditional approval thirty calendar days prior to the expiration date; and

(b) Such request is granted by the department.

(5) A transplant center of excellence shall meet Medicare's survival rate requirements for the transplant procedure(s) performed at the facility.

(6) A transplant center of excellence shall submit to the department annually, at the same time the hospital submits a copy of its Medicare Cost Report (HCFA 2552 report) documentation showing:

(a) The numbers of transplants performed at the facility during its preceding fiscal year, by type of procedure; and

(b) Survival rates data for procedures performed over the preceding three years as reported on the United Network of Organ Sharing report form.

(7)(a) Transplant facilities shall submit to the department, within sixty days of the date of the facility's approval as a center of excellence, a complete set of the comprehensive patient selection criteria and treatment protocols used by the facility for each transplant procedure it has been approved to perform.

(b) The facility shall submit to the department updates to said documents annually thereafter, or whenever the facility makes a change to the criteria and/or protocols.

(c) If no changes occurred during a reporting period the facility shall so notify the department to this effect.

(8) The department shall evaluate compliance with the provisions of WAC 388-550-2100 (2)(d) and (e) based on the protocols and criteria submitted to the department by transplant centers of excellence in accordance with subsection (7) of this section. The department shall terminate a facility's designation as a transplant center of excellence if a review or audit finds that facility in noncompliance with:

(a) Its protocols and criteria in evaluating and selecting candidates for transplantation; and

(b) Distributing donated organs in a fair and equitable manner that promotes an optimal or successful patient outcome.

(9)(a) The department shall provide transplant centers of excellence it finds in noncompliance with subsection (8) of this section sixty days within which such centers may submit a plan to correct a breach of compliance;

(b) The department shall not allow the sixty-day option as stated in (a) of this subsection for a breach that constitutes

a danger to the health and safety of clients as stated in WAC ((388-87-005 (3)(d))) 388-502-0030;

(c) Within six months of submitting a plan to correct a breach of compliance, a center shall report to the department showing:

(i) The breach of compliance has been corrected; or

(ii) Measurable and significant improvement toward correcting such breach of compliance.

(10) The department shall periodically review the list of approved transplant centers of excellence. The department may limit the number of facilities it designates as transplant centers of excellence or contracts with to provide services to medical care clients if, in the department's opinion, doing so would promote better client outcomes and cost efficiencies.

(11) The department shall reimburse department-approved centers of excellence for covered transplant procedures using any of the methods identified in chapter 388-550 WAC.

AMENDATORY SECTION (Amending WSR 98-01-124, filed 12/18/97, effective 1/18/98)

**WAC 388-550-6700 Hospital services provided out-of-state.** (1) The department shall reimburse only emergency care for an eligible Medicaid client who goes to another state, except specified border cities, specifically for the purpose of obtaining medical care that is available in the state of Washington. See WAC 388-501-0175 for a list of border cities.

(2) The department shall authorize and provide comparable medical care services to a Medicaid client who is temporarily outside the state to the same extent that such medical care services are furnished to an eligible Medicaid client in the state, subject to the exceptions and limitations in this section.

(3) The department shall not authorize payment for out-of-state medical care furnished to state-funded clients (medically indigent/medical care services), but may authorize medical services in designated bordering cities.

(4) The department shall cover hospital care provided to Medicaid clients in areas of Canada as described in WAC 388-501-0180 ((1)(b)).

(5) The department shall review all cases involving out-of-state medical care to determine whether the services are within the scope of the medical assistance program.

(6)(a) If the client can claim deductible or coinsurance portions of Medicare, the provider shall submit the claim to the intermediary or carrier in the provider's own state on the appropriate Medicare billing form.

(b) If the state of Washington is checked on the form as the party responsible for medical bills, the intermediary or carrier may bill on behalf of the provider or may return the claim to the provider for submission to the state of Washington.

(7) For reimbursement for out-of-state inpatient hospital services, see WAC 388-550-4000.

(8) The department shall reimburse out-of-state outpatient hospital services billed under the physician's current procedural terminology codes at an amount that is the lower of:

(a) The billed amount; or

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(b) The rate paid by the Washington state Title XIX Medicaid program.

(9) Out-of-state providers shall present final charges to MAA within three hundred sixty-five days of the date of service. In no case shall the state of Washington be liable for payment of charges received beyond one year from the date services were rendered.

**AMENDATORY SECTION** (Amending WSR 98-15-054, filed 7/10/98, effective 7/10/98)

**WAC 388-555-1150 Eligible providers.** (1) To provide services other than at FQHCs, independent interpreters and/or interpreter agencies are considered eligible providers when they:

(a) Are enrolled with MAA to provide interpreter services;

(b) Meet the criteria in WAC (~~388-87-007, Medical provider agreement, and WAC 388-87-010, Conditions of payment - General~~) 388-502-0020 and 388-502-0100.

(2) To enroll as an independent interpreter for MAA clients, interpreters shall submit the following to the department:

(a) Proof of certification which may be either:

(i) Number and date of medical certificate from LIST; or

(ii) A copy of a RID or NAD certificate for certified sign language interpreters.

(b) A Social Security Number, if the interpreter has one;

(c) A completed interpreter services core provider agreement;

(d) A signed confidentiality pledge;

(e) A completed provider information form; and

(f) Verification of errors and omissions liability insurance at or over one hundred thousand dollars per occurrence.

(3) To enroll with MAA as an interpreter agency, the agency shall submit to the department:

(a) A completed interpreter services core provider agreement;

(b) Verification of errors and omissions liability insurance at or over one million dollars per occurrence;

(c) A completed provider information form; and

(d) A list of interpreters employed/contracted to provide services to MAA clients, including the following information for each interpreter:

(i) A signed confidentiality pledge; and

(ii) Number and date of medical certificate from LIST;

or

(iii) A copy of a current RID or NAD certificate for certified sign language interpreters or written description of evaluation process for qualified interpreter status.

(4) To qualify as an eligible provider, an interpreter agency shall have the capacity to provide interpreter services in:

(a) American Sign Language; or

(b) At least three spoken languages; or

(c) Fewer than three spoken languages if the languages provided are reflective of a majority of the LEP clients residing within the county(ies) served by the agency. DSHS reports will be used to identify the languages needed in the demographic area.

**AMENDATORY SECTION** (Amending WSR 98-15-054, filed 7/10/98, effective 7/10/98)

**WAC 388-555-1200 Provider requirements.** (1) An interpreter or interpreter agency shall not determine the need for interpreter services, nor shall the interpreter market interpreter services to MAA clients. See WAC 388-555-1250, Coordination of services.

(2) An interpreter or interpreter agency shall not require a client to obtain interpreter services exclusive of other interpreters or interpreter agencies.

(3) An interpreter or interpreter agency shall adhere to department policies and procedures regarding confidentiality of client records as stated in WAC (~~388-501-0150~~) 388-01-030.

(4) An independent interpreter shall enroll with the department as provided in WAC 388-555-1100 and obtain a current medical assistance provider number.

(5) An interpreter or interpreter agency must participate in an orientation which will be scheduled and given by MAA within their first year of contracting with the department. The department may terminate contracts with any provider who does not participate in the orientation.

(6) Interpreter agencies shall assume full legal and financial liability for interpreter services provided by employees and contractors.

**AMENDATORY SECTION** (Amending WSR 98-18-079 [00-11-183], filed 5/24/00, effective 5/24/00)

**WAC 388-556-0400 Limitations on services available to recipients of categorically needy medical assistance.** (1) Organ transplants are limited to the cornea, heart, heart-lung, kidney, kidney-pancreas, liver, pancreas, single lung, and bone marrow.

(2) The department shall provide treatment, dialysis, equipment, and supplies for acute and chronic nonfunctioning kidneys when the client is in the home, hospital, or kidney center as described under WAC (~~388-86-050(12)~~) 388-540-005.

(3) Detoxification and medical stabilization are provided to chemically-using pregnant women in a hospital.

(4) The department shall provide detoxification of acute alcohol or other drug intoxication only in a certified detoxification center or in a general hospital having a detoxification provider agreement with the department.

(5) The department shall provide outpatient chemical dependency treatment in programs qualified under chapter 275-25 WAC and certified under chapter 275-19 WAC or its successor.

(6) The department may require a second opinion and/or consultation before the approval of any elective surgical procedure.

(7) The department designates diagnoses that may require surgical intervention:

(a) Performed in other than a hospital in-patient setting; and

(b) Requiring prior approval by the department for a hospital admission.

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

WSR 01-02-076
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed December 29, 2000, 2:27 p.m.]

Date of Adoption: December 29, 2000.

Purpose: To correct Medical Assistance Administration (MAA) rules that contain cross-references to rules that have been renumbered or repealed and written into new chapters. MAA recently reorganized and rewrote most of its rules so they are located in one area of Title 388 WAC. In doing so, some cross-references to rules are now incorrect; this amendment updates those cross-references so users may be referred to the correct rule.

Citation of Existing Rules Affected by this Order: Amending WAC 388-501-0135, 388-502-0120, 388-505-0540, 388-512-1230, 388-513-1365, 388-527-2750, 388-527-2790, 388-529-0100, 388-534-0100, 388-535-1050, 388-537-0100, and 388-538-095.

Statutory Authority for Adoption: RCW 74.08.090.

Adopted under notice filed as WSR 00-20-097 on October 4, 2000.

Changes Other than Editing from Proposed to Adopted Version: Withdrawal of WAC 388-513-1350 from the original proposal.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 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 12, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 12, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

December 29, 2000

Bonita H. Jacques, Chief
Office of Legal Affairs

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-501-0135 Patient requiring regulation. (1) Patient requiring regulation (PRR) is a health and safety program for clients needing help in the appropriate use of medical services. A client in PRR is restricted to one primary care

provider (PCP) and one pharmacy. Enrollment in the PRR program is for twenty-four months.

(2) Any client of the department's medical programs is reviewed for assignment to PRR if:

(a) The client has:

(i) Made repeated and documented efforts to seek medically unnecessary health services; and

(ii) Been counseled at least once by a health care provider or managed care plan representative about the appropriate use of health care services; or

(b) Any three of the following conditions have been met or exceeded in a ninety-day period. The client:

((a)) (i) Received services from four different physicians; or

((b)) (ii) Had prescriptions filled by four different pharmacies; or

((c)) (iii) Received ten prescriptions; or

((d)) (iv) Had prescriptions filled by four different prescribers; or

((e)) (v) Used two emergency room (ER) visits.

(3) If subsections (2)(a) or (b) of this section apply, then the client's use of medical services is reviewed by the department. The review considers the client's diagnoses, history of services provided, or other medical information supplied by the health care provider or managed care plan. The review is done by a nurse consultant, physician, or other qualified medical staff according to established medical review guidelines.

(4) If the medical review finds that the client uses inappropriate or medically unnecessary services the client receives written notice which:

(a) Asks the client to select a primary care provider and one pharmacy; and

(b) Notifies the client of their right to request a fair hearing within ninety days (see subsection (6) of this section); and

(c) Requires the client to respond within twenty days by:

(i) Selecting a primary care provider and pharmacy; or

(ii) Submitting additional medical information, which justifies the client's use of medical services; or

(iii) Writing or calling the PRR representative, who is identified in the PRR notice, requesting assistance; or

(iv) Requesting a fair hearing (see subsection (6) of this section).

(5) A client who does not respond to the notice within twenty days is assigned to the PRR program. The department assigns the client to a PCP and pharmacy. The client may change the assigned PCP and pharmacy once within the initial sixty days. The assigned providers will be:

(a) Located in the client's local geographic area; and

(b) Reasonably accessible to the client.

(6) A client has ninety days to request a fair hearing. A client who requests a fair hearing within twenty days from the date they receive notice under subsection (4) of this section will not be assigned to the PRR program until a fair hearing decision is made. A client who requests a fair hearing after twenty days may have been assigned a PCP and pharmacist. An assigned client will remain in PRR until a fair hearing decision is made.

(7) When a PRR client chooses or the department assigns a PCP and pharmacy, the PCP and pharmacy requirements are:

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(a) A PCP supervises and coordinates medical care for the client. The PCP makes referrals for specialist care and provides continuity of care. A PCP must be:

(i) A physician who meets the criteria under WAC ((~~388-87-007~~) 388-502-0020 and 388-502-0030); or

(ii) An advanced registered nurse practitioner (ARNP) who meets criteria under WAC ((~~388-87-007~~) 388-502-0020 and 388-502-0030); or

(iii) A licensed physician assistant, practicing with a sponsoring supervising physician.

(b) A single pharmacy fills all prescriptions for the client. For fee for service clients the pharmacy must be contracted with MAA.

(c) For clients enrolled in a managed care plan, the pharmacy and PCP must be contracted with the client's managed care plan.

(8) The PRR client's medical assistance identification card (MAID) will be marked in the "restricted" column.

(9) A client in PRR cannot change their PCP or pharmacy for twelve months unless the:

(a) Client changes to a residence outside the provider's geographic area; or

(b) PCP or pharmacy moves out of the client's geographical area; or

(c) PCP or pharmacy refuses to continue as the client's provider; or

(d) Client was assigned providers. The client may change the assigned providers once within sixty days of the initial assignment.

(10) A PRR client enrolled in a managed care plan must select a PCP and pharmacy from those identified as available within their plan. In addition to the reasons given in subsection (9) of this section, the client may change a provider if the:

(a) Chosen or assigned PCP or pharmacy no longer participates with their plan. The client may:

(i) Select a new PCP from the list of available PCPs provided by the plan; or

(ii) Transfer enrollment of all family members to the new department-contracted plan which the established PCP has joined.

(b) Client chooses a new plan during the managed care program's open enrollment period, which occurs during the twenty-four-month PRR enrollment period as defined in subsection (1) of this section.

(11) After twenty-four months, a PRR client's use of services is reviewed. A client is removed from PRR if:

(a) The billing records show the care received was reasonable and appropriate; or

(b) The PCP reports the services requested and received were reasonable and appropriate.

(12) If the client is not removed from PRR under subsection (11) of this section, the client continues to be in PRR for an additional twelve months. After that twelve-period, the client is reviewed again according to subsection (11)(a) and (b) of this section.

(13) Under the PRR program, MAA or the client's managed care plan will pay for only:

(a) Those services authorized by the PCP, the PCP-referred specialist, or the pharmacist; or

(b) Emergencies services; or

(c) Family planning services; or

(d) Women's health care services. A client enrolled with a managed care plan must self-refer to providers within the plan's network.

The client may be responsible for payment of services not covered by the PRR program.

**AMENDATORY SECTION** (Amending WSR 00-01-088, filed 12/14/99, effective 1/14/00)

**WAC 388-502-0120 Payment for medical care outside the state of Washington.** (1) The medical assistance administration (MAA) pays the provider of service in designated bordering cities as if the care were provided within the state of Washington (see WAC 388-501-0175). MAA requires providers to meet the licensing requirements of the state in which care is rendered.

(2) MAA does not authorize payment for out-of-state medical care furnished to clients in state-only funded medical programs.

(3) MAA applies the three-month retroactive coverage as defined under WAC ((~~388-80-005~~) 388-500-0005) to covered medical services that are furnished to eligible clients by out-of-state providers.

(4) MAA requires out-of-state providers to obtain a valid provider number in order to be reimbursed.

(a) MAA requires a completed core provider agreement, and furnishes the necessary billing forms, instructions, and a core provider agreement to providers.

(b) MAA issues a provider number after receiving the signed core provider agreement.

(c) The billing requirements of WAC ((~~388-87-010~~) 388-502-0100 and ((~~388-87-015~~) 388-502-0150) apply to out-of-state providers.

(5) For Medicare-eligible clients, providers must submit Medicare claims, on the appropriate Medicare billing form, to the intermediary or carrier in the provider's state. If the provider checks the Medicare billing form to show the state of Washington as being responsible for medical billing, the intermediary or carrier may either:

(a) Forward the claim to MAA on behalf of the provider; or

(b) Return the claim to the provider, who then submits it to MAA.

(6) For covered services for eligible clients, MAA reimburses approved out-of-state nursing facilities at the lower of:

(a) The billed amount; or

(b) The adjusted statewide average reimbursement rate for in-state nursing facility care.

(7) For covered services for eligible clients, MAA reimburses approved out-of-state hospitals at the lower of:

(a) The billed amount; or

(b) The adjusted statewide average reimbursement rate for in-state hospitals.

(8) For covered services for eligible clients, MAA reimburses other approved out-of-state providers at the lower of:

(a) The billed amount; or

(b) The rate paid by the Washington state Title XIX Medicaid program.

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-505-0540 Assignment of rights and cooperation.** (1) When a person becomes eligible for any of the department's medical programs, they make assignment of certain rights to the state of Washington. This assignment includes all rights to any type of coverage or payment for medical care which results from:

- (a) A court order;
- (b) An administrative agency order; or
- (c) Any third-party benefits or payment obligations for medical care which are the result of **subrogation** or contract (see WAC ((388-87-020)) 388-501-0100).

(2) **Subrogation** is a legal term which describes the method by which the state acquires the rights of a client for whom or to whom the state has paid benefits. The subrogation rights of the state are limited to the recovery of its own costs.

(3) The person who signs the application makes the assignment of rights to the state. Assignment is made on their own behalf and on behalf of any eligible person for whom they can legally make such assignment.

(4) A person must cooperate with the department in the identification, use or collection of third-party benefits. Failure to cooperate results in a termination of eligibility for the responsible person. Other obligations for cooperation are located in chapters ((388-14)) 388-14A and 388-422 WAC. The following clients are exempt from termination of eligibility for medical coverage as a result of noncooperation:

- (a) A pregnant woman, and
- (b) Minor children, and
- (c) A person who has been determined to have "good cause" for noncooperation (see WAC 388-422-0015).

(5) A person will not lose eligibility for medical assistance programs due solely to the noncooperation of any third party.

(6) A person will be responsible for the costs of otherwise covered medical services if:

- (a) The person received and kept the third-party payment for those services; or
- (b) The person refused to provide to the provider of care their legal signature on insurance forms.

**AMENDATORY SECTION** (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-512-1230 Refusal to accept medical treatment.** (1) A disabled client who refuses without good cause to accept available medical treatment which can reasonably be expected to render the client able to work or do homemaking shall become ineligible.

(2) "**Available medical treatment**" shall mean medical, surgical or psychiatric therapy, or any combination of these treatments.

(3) "**Reasonably be expected to render the client able to work or do homemaking**" shall mean that, in the opinion of the state review team, the recommended medical, surgical, or psychiatric therapy is of such a nature and prognosis that,

in the specific instance of the person involved, medical experience indicates that the recommended treatment will restore or substantially improve the person's ability to work for pay in a regular and predictable manner or to engage in homemaking.

(4) A client has good cause to refuse recommended medical treatment when, according to the best objective judgment of the state office review team, such refusal is based upon one or more of the following conditions:

(a) The person is genuinely fearful of undergoing recommended treatment. Such fear may appear to be unrealistic, or entirely emotional in origin, or irrational; however, fear exists in such a degree that treatment would be adversely affected and the doctor may therefore be dubious about undertaking to treat the person;

(b) The person could lose a faculty, or the remaining use of faculty the client now has, and refuses to accept the risk; or

(c) The person will not accept recommended medical treatment because of definitely stated religious scruples.

(5) The controlling principle in determining whether refusal was for or without good cause rests with the state office review team which will be guided by whether a reasonable, prudent person under similar circumstances would accept the recommended treatment. The determination will be made only after considering all social and medical evidence, including that furnished by the person, who will be provided with an opportunity to set forth in writing objective reasons for declining recommended treatment. A determination that a refusal to accept treatment without good cause is a decision which the client may appeal according to chapter ((388-08)) 388-02 WAC.

**AMENDATORY SECTION** (Amending WSR 00-01-051, filed 12/8/99, effective 1/8/00)

**WAC 388-513-1365 Evaluating the transfer of an asset made on or after March 1, 1997 for long-term care (LTC) services.** This section describes how the department evaluates the transfer of an asset made on or after March 1, 1997, by a client who is applying or approved for LTC services. The department must consider whether a transfer made within a specified time before the month of application requires a penalty period in which the client is not eligible for these services. Refer to WAC 388-513-1366 for rules used to evaluate the transfer of an asset made before March 1, 1997.

(1) The department disregards the following transfers by the client, if they meet the conditions described:

(a) Gifts or donations totaling one thousand dollars or less in any month;

(b) The transfer of an excluded resource described in WAC 388-513-1360 with the exception of the client's home, unless the transfer meets the conditions described in subsection (1)(d);

(c) The transfer of an asset for less than fair market value (FMV), if the client can provide evidence to the department that satisfies one of the following:

(i) An intent to transfer the asset at FMV or other adequate compensation;

(ii) The transfer is not made to qualify for LTC services;

- (iii) The client is given back ownership of the asset;
- (iv) The denial of eligibility would result in an undue hardship.
- (d) The transfer of ownership of the client's home, if it is transferred to the client's:
  - (i) Spouse; or
  - (ii) Child, who:
    - (A) Meets the disability criteria described in WAC 388-511-1105 (1)(b) or (c); or
    - (B) Is less than twenty-one years old; or
  - (iii) A son or daughter, who:
    - (A) Lived in the home for at least two years immediately before the client's current period of institutional status; and
    - (B) Provided care that enabled the client to remain in the home; or
  - (iv) A brother or sister, who has:
    - (A) Equity in the home, and
    - (B) Lived in the home for at least one year immediately before the client's current period of institutional status.
- (e) The transfer of an asset other than the home, if the transfer meets the conditions described in subsection (4), and the asset is transferred:
  - (i) To the client's spouse or to another person for the sole benefit of the spouse;
  - (ii) From the client's spouse to another person for the sole benefit of the spouse;
  - (iii) To the client's child who meets the disability criteria described in WAC 388-511-1105 (1)(b) or (c) or to a trust established for the sole benefit of this child; or
  - (iv) To a trust established for the sole benefit of a person who is sixty-four years old or younger and meets the disability criteria described in WAC 388-511-1105 (1)(b) or (c).
- (f) The transfer of an asset to a member of the client's family in exchange for care the family member provided the client before the current period of institutional status, if a written agreement that describes the terms of the exchange:
  - (i) Was established at the time the care began;
  - (ii) Defines a reasonable FMV for the care provided that reflects a time frame based on the actuarial life expectancy of the client who transfers the asset; and
  - (iii) States that the transferred asset is considered payment for the care provided.
- (2) When the fair market value of the care described in subsection (1)(f) is less than the value of the transferred asset, the department considers the difference the transfer of an asset without adequate consideration.
- (3) The department considers the transfer of an asset in exchange for care given by a family member without a written agreement as described under subsection (1)(f) as the transfer of an asset without adequate consideration.
- (4) The transfer of an asset or the establishment of a trust is considered to be for the sole benefit of a person described in subsection (1)(e), if the transfer or trust:
  - (a) Is established by a legal document that makes the transfer irrevocable; and
  - (b) Provides for spending all funds involved for the benefit of the person for whom the transfer is made within a time frame based on the actuarial life expectancy of that person.
- (5) When evaluating the effect of the transfer of an asset on a client's eligibility for LTC services received on or after

October 1, 1993, the department counts the number of months before the month of application to establish what is referred to as the "look-back" period. The following number of months apply as described:

- (a) Thirty-six months, if all or part of the assets were transferred on or after August 11, 1993; and
- (b) Sixty months, if all or part of the assets were transferred into a trust as described in WAC 388-505-0595.
- (6) If a client or the client's spouse transfers an asset within the look-back period without receiving adequate compensation, the result is a penalty period in which the client is not eligible for LTC services. If a client or the client's spouse transfers an asset on or after March 1, 1997, the department must establish a penalty period as follows:
  - (a) If a single or multiple transfers are made within a single month, then the penalty period:
    - (i) Begins on the first day of the month in which the transfer is made; and
    - (ii) Ends on the last day of the number of whole months found by dividing the total uncompensated value of the assets by the statewide average monthly private cost for nursing facilities at the time of application.
  - (b) If multiple transfers are made during multiple months, then the transfers are treated as separate events and multiple penalty periods are established that:
    - (i) Begin on the latter of:
      - (A) The first day of the month in which the transfer is made; or
      - (B) The first day after any previous penalty period has ended; and
    - (ii) End on the last day of the whole number of months as described in subsection (6)(a)(ii).
- (7) If an asset is sold, transferred, or exchanged, the portion of the proceeds:
  - (a) That is used within the same month to acquire an excluded resource described in WAC 388-513-1360 does not affect the client's eligibility;
  - (b) That remains after an acquisition described in subsection (7)(a) becomes an available resource as of the first day of the following month.
- (8) If the transfer of an asset to the client's spouse includes the right to receive a stream of income not generated by a transferred resource, the department must apply rules described in WAC 388-513-1330 (6) through (8).
- (9) If the transfer of an asset for which adequate compensation is not received is made to a person other than the client's spouse and includes the right to receive a stream not generated by a transferred resource, the length of the penalty period is determined and applied in the following way:
  - (a) The total amount of income that reflects a time frame based on the actuarial life expectancy of the client who transfers the income is added together;
  - (b) The amount described in (9)(a) is divided by the statewide average monthly private cost for nursing facilities at the time of application; and
  - (c) A penalty period equal to the number of whole months found by following subsections (9)(a) and (b) is applied that begins on the latter of:
    - (i) The first day of the month in which the client transfers the income; or

(ii) The first day of the month after any previous penalty period has ended.

(10) A penalty period for the transfer of an asset that is applied to one spouse is not applied to the other spouse, unless:

(a) Both spouses are receiving LTC services; and

(b) A division of the penalty period between the spouses is requested.

(11) If a client or the client's spouse disagrees with the determination or application of a penalty period, that person may request a ((fair)) hearing as described in chapter ((388-08)) 388-02 WAC.

**AMENDATORY SECTION** (Amending WSR 99-11-076, filed 5/18/99, effective 6/18/99)

**WAC 388-527-2750 Waiver of recovery if undue hardship.** Recovery is waived under this section when recovery would cause an undue hardship, except as provided in subsection (3) of this section. This waiver is limited to the period during which undue hardship exists.

(1) Undue hardship exists when:

(a) The estate subject to adjustment or recovery is the sole income-producing asset of one or more of the heirs and income is limited; or

(b) Recovery would result in the impoverishment of one or more of the heirs; or

(c) Recovery would deprive an heir of shelter and the heir lacks the financial means to obtain and maintain alternative shelter.

(2) Undue hardship does not exist when:

(a) The adjustment or recovery of the client's cost of assistance would merely cause the client's family members inconvenience or restrict the family's lifestyle.

(b) The heir divests assets to qualify under the undue hardship provision.

(3) When a deceased client's assets were disregarded in connection with a long-term care insurance policy or contract under chapter 48.85 RCW, recovery is not waived.

(4) When a waiver is not granted, the department will provide notice to the person who requested the waiver. The denial of a waiver must state:

(a) The requirements of an application for an adjudicative proceeding to contest the department's decision to deny the waiver; and

(b) Where assistance may be obtained to make such application.

(5) A person may contest the department's decision in an adjudicative proceeding when that person requested the department waive recovery, and suffered a loss because that request was not granted.

(6) An application for an adjudicative proceeding under this section must:

(a) Be in writing;

(b) State the basis for contesting the department's denial of the request to waive recovery;

(c) Include a copy of the department's denial of the request to waive recovery;

(d) Be signed by the applicant and include the applicant's address and telephone number;

(e) Be served within twenty-eight days of the date the applicant received the department's decision denying the request for a waiver. If the applicant shows good cause, the application may be filed up to thirty days late; and

(f) Be served on the office of financial recovery (OFR) as described in WAC 388-527-2795.

(7) An adjudicative proceeding held under this section shall be governed by chapters 34.05 RCW and ((388-08)) 388-02 WAC and this section. If a provision in this section conflicts with a provision in chapter ((388-08)) 388-02 WAC, the provision in this section governs.

**AMENDATORY SECTION** (Amending WSR 99-11-076, filed 5/18/99, effective 6/18/99)

**WAC 388-527-2790 Filing a lien against real property.** (1) Liens are filed, adjustment sought, and other recoveries effected by the department for medical assistance or state-funded long-term care, or both, correctly paid on behalf of a client consistent with 42 U.S.C. 1396p and chapters 43.20B RCW and 388-527 WAC.

(2) When the department seeks to recover from a client's estate the cost of medical assistance or state-funded long-term care, or both, provided to the client, prior to filing a lien against the deceased client's real property, notice shall be given to:

(a) The probate estate's personal representative, if any; or

(b) Any other person known to have title to the affected property.

(3) Prior to filing a lien against any of the deceased client's real property, a person known to have title to the property shall be notified and have an opportunity for an adjudicative proceeding as follows:

(a) Any person known to have title to the property shall be served with a notice of intent to file lien, which shall state:

(i) The deceased client's name, social security number, if known, date of birth, and date of death;

(ii) The amount of medical assistance, or state-funded long-term care, or both, correctly paid on behalf of the deceased client the department seeks to recover;

(iii) The department's intent to file a lien against the deceased client's real property to recover the medical assistance or state-funded long-term care, or both, correctly paid on behalf of the deceased client;

(iv) The county in which the real property is located; and

(v) The right of the person known to have title to the property to contest the department's decision to file a lien by applying for an adjudicative proceeding with the office of financial recovery (OFR).

(b) An adjudicative proceeding can determine whether:

(i) The amount of medical assistance or state-funded long-term care, or both, correctly paid on behalf of the deceased client alleged by the department's notice of intent to file a lien is correct; and

(ii) The deceased client had legal title to the real property at the time of the client's death.

(4) An application for an adjudicative proceeding must:

(a) Be in writing;

(b) State the basis for contesting the department's notice of intent to file the lien;

(c) Be signed by the applicant and state the applicant's address and telephone number;

(d) Be served on (OFR) within twenty-eight days of the date the applicant received the department's notice of intent to file the lien. An application filed up to thirty days late may be treated as timely filed if the applicant shows good cause for filing late; and

(e) Be served on OFR as described in WAC 388-527-2795.

(5) Persons known to have title to the property shall be notified of the time and place of the adjudicative proceeding by the department when it receives an application for the same.

(6) An adjudicative proceeding under this section shall be governed by chapters 34.05 RCW and ~~((388-08))~~ 388-02 WAC and this section. If a provision in this section conflicts with a provision in chapter ~~((388-08))~~ 388-02 WAC, the provision in this section governs.

(7) If no known title holder requests an adjudicative proceeding, a lien shall be filed by the department twenty-eight days after the date that the notice of intent to file the lien letter was mailed. The lien will be filed against the deceased client's real property in the amount of the correctly paid medical assistance or state-funded long-term care, or both.

(8) If an adjudicative proceeding is conducted in accordance with this regulation, when the final agency decision is issued, the department will file a lien against the deceased client's real property for the amount of the correctly paid medical assistance or state-funded long-term care, or both, as established by that final agency decision.

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-529-0100 Scope of covered medical services by program.** (1) The scope of medical care which clients can receive is based on the medical program for which they are eligible. Clients eligible for the following medical programs have coverage for the medically necessary services indicated in the specific columns in the chart provided in WAC 388-529-0200:

(a) Categorically needy (CN) medical coverage is provided as described in the "CN" column. Coverage is modified by the provisions in this section and those found in ~~((chapter 388-86))~~ other medical-assistance-related WAC;

(b) Medically needy (MN) medical coverage is provided as described in the "MN" column and as modified in this section and in ~~((chapter 388-86))~~ other medical-assistance-related WAC;

(c) General assistance - unemployable (GAU) or alcohol and drug abuse treatment and support act (ADATSA) medical coverage is provided as described in the "MCS" column. Coverage is modified by the provisions in WAC ~~((388-86-120))~~ 388-556-0500;

(d) The state-funded children's health program has medical coverage as described in the "CN" column and in subsection (1)(a) of this section;

(e) State-funded medically indigent (MI) program has medical coverage as described in the "MI" column to the extent that services are related to the qualifying emergency

condition. Coverage begins after the client has met the annual emergency medical expense requirement (EMER) as described in WAC 388-438-0100.

(f) Pregnant undocumented aliens have medical coverage as described in the "CN" column and in subsection (1)(a) of this section.

(2) "Medically necessary" is a standard for coverage of services under the CN and MN programs. The term is defined in WAC 388-500-0005.

(3) Entries in WAC 388-529-0200 have the following meanings and conditions:

(a) "Yes":

(i) The service must be medically necessary as defined by the program; and

(ii) The service may have conditions placed on coverage in order to ensure that medical necessity exists. Examples are:

(A) The prior authorization requirement,

(B) The primary care provider referral requirement,

(C) The limit on eyeglasses to be covered for adults only once in a twenty-four-month period without documentation of special circumstances, etc.

(b) "HK" - the services are provided to children under the healthy kids program as described in WAC ~~((388-86-027))~~ 388-534-0100. This is consistent with the broader scope of coverage under the healthy kids program.

(c) "No" - This entry is used to describe coverage limitations of state-funded programs and indicates that the services are not covered. However, medically necessary services may be available under an "exception to rule" as described in chapter 388-440 WAC.

(d) "L" - the services are provided under limited circumstances described further under WAC 388-529-0200.

(e) "R" - the services are provided only as they are directly connected to emergency medical conditions. These program restrictions are described in WAC 388-438-0100.

(4) Coverage described in this chapter may be further limited by the notations defined in WAC 388-529-0200 and ~~((the provisions in chapters 388-86 and 388-87))~~ other medical-assistance-related WAC. Services may require prior authorization to ensure that medical necessity exists.

(5) Medical service categories not listed in WAC 388-529-0200 may not be covered under typical circumstances. Seeking specific coverage decisions in advance of service delivery is advised. Medical service providers may request authorization for any service which they see as medically necessary under WAC 388-501-0165.

**AMENDATORY SECTION** (Amending WSR 98-16-044 [00-11-183], filed 5/24/00, effective 5/24/00)

**WAC 388-534-0100 Healthy kids/EPSDT.** (1) Persons who are eligible for Medicaid are eligible for healthy kids (HK) coverage up through the day before their twenty-first birthday. This coverage is called early and periodic screening, diagnosis and treatment (EPSDT) in federal rule.

(2) Access and services for healthy kids are governed by federal rules at 42 CFR, Part 441, Subpart B which were in effect as of January 1, 1998.

(a) The standard for coverage for healthy kids is that the services, treatment or other measures are:

- (i) Medically necessary;
- (ii) Safe and effective; and
- (iii) Not experimental.

(b) Healthy kids services are exempt from specific coverage or service limitations which are imposed on the rest of the CN and MN program. Examples of service limits which do not apply to the healthy kids program are the specific numerical limits in WAC ((~~388-86-073(4)~~, ~~388-86-090(2)~~, ~~388-86-098(3)~~) 388-545-300, 388-545-500, and 388-545-700, etc.

(c) Services not otherwise covered under the Medicaid program are available to children under healthy kids. The services, treatments and other measures which are available include but are not limited to:

- (i) Nutritional counseling;
- (ii) Chiropractic care;
- (iii) Orthodontics; and
- (iv) Occupational therapy (not otherwise covered under the MN program).

(d) Prior authorization and referral requirements are imposed on medical service providers under healthy kids. Such requirements are designed as tools for determining that a service, treatment or other measure meets the standards in subsection (2)(a) of this section.

(3) Transportation requirements of 42 CFR 441, Subpart B are met through a contract with transportation brokers throughout the state.

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

**AMENDATORY SECTION** (Amending WSR 99-07-023, filed 3/10/99, effective 4/10/99)

**WAC 388-535-1050 Dental-related definitions.** This section contains definitions of words and phrases in bold that the department uses in this chapter. See also chapter 388-500 WAC for other definitions and abbreviations. Further dental definitions used by the department may be found in the Current Dental Terminology (CDT-2) and the Current Procedural Terminology (CPT). Where there is any discrepancy between the CDT-2 or CPT and this section, this section prevails.

**"Access to baby and child dentistry (ABCD)"** is a demonstration project to increase access to dental services in targeted areas for Medicaid eligible infants, toddlers, and preschoolers up through the age of five. See WAC 388-535-1300 for specific information.

**"Adult"** means a client nineteen years of age or older.

**"Anterior"** means teeth in the front of the mouth. In relation to crowns, only these permanent teeth are considered anterior for laboratory processed crowns:

- (1) **"Lower anterior,"** teeth twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, and twenty-seven; and
- (2) **"Upper anterior,"** teeth six, seven, eight, nine, ten, and eleven.

**"Arch"** means the curving structure formed by the crowns of the teeth in their normal position, or by the residual ridge after loss of the teeth.

**"Asymptomatic"** means having no symptoms.

**"Banding"** means the application of **orthodontic** brackets to the teeth for the purpose of correcting dentofacial abnormalities.

**"Base metal"** means dental alloy containing little or no precious metals.

**"Behavior management"** means managing the behavior of a client during treatment using the assistance of additional professional staff, and professionally accepted restraints or sedative agent, to protect the client from self-injury.

**"Bicuspid"** means teeth four, five, twelve, thirteen, twenty, twenty-one, twenty-eight, and twenty-nine.

**"By report"** - a method of payment for a covered service, supply, or equipment which:

- (1) Has no maximum allowable established by MAA,
- (2) Is a variation on a standard practice, or
- (3) Is rarely provided.

**"Caries"** means tooth decay.

**"Child"** means a client eighteen years of age or younger.

**"Cleft"** means an opening or fissure involving significant dental processes, especially one occurring in the embryo. These can be:

- (1) Cleft lip,
- (2) Cleft palate (at the roof of the mouth), or
- (3) Transverse facial cleft (macrostomia).

**"Comprehensive oral evaluation"** means a thorough evaluation and recording of the hard and soft tissues in and around the mouth, including the evaluation and recording of the patient's dental and medical history and a general health assessment.

**"Corona"** is the portion of a tooth that is covered by **enamel**, and is separated from the root or roots by a slightly constricted region, known as the cemento-**enamel** junction.

**"Craniofacial anomalies"** means abnormalities of the head and face, either congenital or acquired, involving significant dental processes.

**"Craniofacial team"** means a department of health and MAA recognized cleft palate/maxillofacial team which is: Responsible for management (review, evaluation, and approval) of patients with cleft palate craniofacial anomalies to provide integrated case management, promote parent-professional partnership, making appropriate referrals to implement and coordinate treatment plans.

**"Current dental terminology (CDT), second edition (CDT-2),"** a systematic listing of descriptive terms and identifying codes for reporting dental services and procedures performed by dental practitioners. CDT is published by the Council on Dental Benefit Programs of the American Dental Association (ADA).

**"Current procedural terminology (CPT),"** means a description of medical procedures and is available from the American Medical Association of Chicago, Illinois.

**"Dental general anesthesia"** means the use of agents to induce loss of feeling or sensation, a controlled state of unconsciousness, in order to allow dental services to be rendered to the client.

**"Dentally necessary"** means diagnostic, preventive, or corrective services that are accepted dental procedures appropriate for the age and development of the client to prevent the incidence or worsening of conditions that endanger teeth or periodontium (tissues around the teeth) or cause significant malfunction or impede reasonable development or homeostasis (health) in the stomatognathic (mouth and jaw) system:

(1) Which may include simple observation with no treatment, if appropriate; and

(2) Includes use of less costly, equally effective services.

**"Dentin"** is the mineralized tissue of the teeth, which surrounds the tooth pulp and is covered by **enamel** on the crown and by cementum on the roots of the teeth.

**"Dentures"** are a set of prosthetic artificial teeth. See WAC 388-535-1240 for specific information.

**"Dysplasia"** means an abnormality in the development of the teeth.

**"Enamel"** is the white, compact, and very hard substance that covers and protects the dentin of the crown of a tooth.

**"Endodontic"** means a root canal treatment and related follow-up.

**"EPSDT/healthy kids"** means the department's early periodic screening, diagnosis, and treatment program for clients twenty years of age and younger as described in chapter 388-534 WAC ((388-86-027)).

**"Fluoride varnish"** means a substance containing dental fluoride, for painting onto teeth. When painted onto teeth, it sticks to tooth surfaces.

**"Gingiva"** means the gums.

**"Hemifacial microsomia"** means half or part of the face is smaller-sized.

**"High noble metal"** means dental alloy containing at least sixty percent pure gold.

**"High risk child"** means any **child** who has been identified through an oral evaluation or assessment as being at a high risk for developing dental disease because of **caries** in the **child's** dentin; or a **child** identified by the department as developmentally disabled.

**"Hypoplasia"** means the incomplete or defective development of the **enamel** of the teeth.

**"Low risk child"** means any **child** who has been identified through an oral evaluation or assessment as being at a low risk for dental disease because of the absence of white spots or **caries** in the **enamel** or **dentin**. This category includes **children** with restorations who are otherwise without disease.

**"Major bone grafts"** means a transplant of solid bone tissue(s), such as buttons or plugs.

**"Malocclusion"** means the contact between the upper and lower teeth that interferes with the highest efficiency during the movements of the jaw that are essential to chewing. The abnormality is categorized into four classes, graded by

Angle's classification. For coverage, see WAC 388-535-1250.

**"Maxillofacial"** means relating to the jaws and face.

**"Minor bone grafts"** means a transplant of nonsolid bone tissue(s), such as powdered bone.

**"Moderate risk child"** means a **child** who has been identified through an **oral evaluation or assessment** as being at a moderate risk for dental disease, based on presence of white spots, **enamel caries** or **hypoplasia**.

**"Molars"** means:

(1) Permanent teeth one, two, three, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, thirty, thirty-one, and thirty-two; and

(2) Primary teeth A, B, I, J, K, L, S and T.

**"Noble metal"** means a dental alloy containing at least twenty-five percent but less than sixty percent pure gold.

**"Occlusion"** means the relation of the upper and lower teeth when in functional contact during jaw movement.

**"Oral evaluation"** is a comprehensive oral health and developmental history; an assessment of physical and oral health development and nutritional status; and health education, including anticipatory guidance.

**"Oral health assessment or screening"** means a screening of the hard and soft tissues in the mouth.

**"Oral health status"** refers to the client's risk or susceptibility to dental disease at the time an oral evaluation is done by a dental practitioner. This risk is designated as low, moderate or high based on the presence or absence of certain indicators.

**"Orthodontic"** is a treatment involving the use of any appliance, in or out of the mouth, removable or fixed, or any surgical procedure designed to redirect teeth and surrounding tissues.

**"Partials"** means a prosthetic appliance replacing one or more missing teeth in one jaw, and receiving its support and retention from both the underlying tissues and some or all of the remaining teeth. See WAC 388-535-1240 for specific information.

**"Posterior"** means teeth and tissue towards the back of the mouth. Specifically, only these permanent teeth: One, two, three, four, five, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-eight, twenty-nine, thirty, thirty-one, and thirty-two.

**"Prophylaxis"** means intervention which includes the **scaling** and **polishing** of teeth to remove **coronal** plaque, calculus, and stains.

**"Reline"** means to resurface the tissue side of a denture with new base material in order to achieve a more accurate fit.

**"Root planing"** is a procedure designed to remove microbial flora, bacterial toxins, calculus, and diseased cementum or **dentin** from the teeth's root surfaces and pockets.

**"Scaling"** means the removal of calculous material from the exposed tooth surfaces and that part of the teeth covered by the marginal gingiva.

**"Sealant"** is a material applied to teeth to prevent dental caries.

"**Sequestrectomy**" means removal of dead or dying bone that has separated from healthy bone.

"**Therapeutic pulpotomy**" means the surgical removal of a portion of the pulp (inner soft tissue of a tooth), to retain the healthy remaining pulp.

"**Usual and customary**" means the fee that the provider usually charges non-Medicaid customers for the same service or item. This is the maximum amount that the provider may bill MAA.

"**Wisdom teeth**" means teeth one, sixteen, seventeen, and thirty-two.

**AMENDATORY SECTION** (Amending WSR 00-01-088, filed 12/14/99, effective 1/14/00)

**WAC 388-537-0100 School medical services for students in special education programs.** (1) The medical assistance administration (MAA) pays school districts or educational service districts (ESD) for qualifying medical services provided to an eligible student. To be covered under this section, the student must be eligible for Title XIX (i.e., either the categorically needy or medically needy programs).

(2) To qualify for payment under this section, the medical services must be provided:

(a) By the school district or the ESD; and

(b) To the eligible special education student as part of the student's individualized education program (IEP) or individualized family service plan (IFSP).

(3) To qualify for payment under this section, the medical services must be provided by one of the following service providers:

(a) A qualified Medicaid provider as described under WAC ((388-87-005)) 388-502-0010;

(b) A psychologist, licensed by the state of Washington or granted an educational staff associate (ESA) certificate by the state board of education;

(c) A school guidance counselor, or a school social worker, who has been granted an ESA certificate by the state board of education; or

(d) A person trained and supervised by any of the following:

(i) A licensed registered nurse;

(ii) A licensed physical therapist or physiatrist;

(iii) A licensed occupational therapist; or

(iv) A speech pathologist or audiologist who:

(A) Has been granted a certificate of clinical competence by the American speech, hearing, and language association;

(B) Is a person who completed the equivalent educational and work experience necessary for such a certificate; or

(C) Is a person who has completed the academic program and is acquiring supervised work experience to qualify for the certificate.

(4) Student service recommendations and referrals must be updated at least annually.

(5) The student does not need a provider prescription to receive services described under this section.

(6) MAA pays for school-based medical services according to the department-established rate or the billed amount, whichever is lower.

(7) MAA does not pay individual school practitioners who provide school-based medical services.

(8) For medical services billed to Medicaid, school districts or ESD, must pursue third-party resources.

**AMENDATORY SECTION** (Amending WSR 00-04-080, filed 2/1/00, effective 3/3/00)

**WAC 388-538-095 Scope of care for managed care enrollees.** (1) A **managed care enrollee** is eligible for the **categorically needy** scope of medical care as described in WAC 388-529-0100.

(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;

(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)) 388-02 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.

## WSR 01-03-002

### PERMANENT RULES

### DEPARTMENT OF LICENSING

[Filed January 4, 2001, 10:38 a.m.]

Date of Adoption: January 3, 2001.

Purpose: Meet criteria supporting Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: 2; Repealing 1 [WAC 308-56A-355]; and amending 1 [WAC 308-56A-335].

Statutory Authority for Adoption: RCW 46.01.110.

Adopted under notice filed as WSR 00-21-094 on October 18, 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.

PERMANENT

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 1; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 3, 2001

G. A. McDougall  
for Fred Stephens

Director

**AMENDATORY SECTION** (Amending WSR 99-06-037, filed 2/26/99, effective 3/29/99)

**WAC 308-56A-335 Owner deceased**(~~—Release of interest by personal representative~~). (1) (~~What is a personal representative?~~

~~A personal representative is an individual named in the last will and testament or appointed and confirmed by the court to manage the estate of a deceased person.~~

~~(2) How is the interest of the owner of record released on a vehicle ownership document if an owner is deceased?~~

~~Interest is released by the signature of the personal representative on vehicle ownership documents. Any unreleased registered or legal owners shall remain as such on the new certificate of ownership issued by the department.~~

~~(3) What do I need as proof of legal authority to release interest in a vehicle acquired from an estate of a deceased person?~~

~~If the estate is:~~

~~(a) Administered:~~

~~(i) Certified letters of testamentary; or~~

~~(ii) Letter of administration; or~~

~~(iii) Certificate of county clerk.~~

~~(b) Joint tenants with rights of survivorship:~~

~~Certified copy of death certificate.~~

~~(c) Community property:~~

~~(i) Certified copy of the death certificate; and~~

~~(ii) A copy of the community property agreement; or~~

~~(iii) Affidavit of inheritance.~~

~~(d) Estate not administered:~~

~~(i) Certified copy of death certificate; and~~

~~(ii) Affidavit of inheritance; or~~

~~(iii) Affidavit of succession.) **What titling options are available when a vehicle owner is deceased?**~~

~~(a) The vehicle can be titled in the name of the estate; or~~

~~(b) The vehicle ownership may be released by a personal representative and transferred into the name of a new owner;~~  
~~or~~

~~(c) The surviving owner may transfer into their name if joint tenancy was indicated on the certificate of ownership.~~

~~(2) **How can a vehicle be titled in the name of the estate of the deceased?** The signature of a personal representative as described in RCW 11.02.005(1) is required to~~

~~release interest for the deceased owner. The vehicle may then be titled and licensed in the name of the estate of the deceased pending final settlement of the estate. A copy of the court order appointing or confirming the personal representative must be attached to the application for certificate of ownership.~~

~~(3) **How will the name of the estate be shown on the certificate of ownership?** The name will be shown as "Estate of (deceased's name)."~~

~~(4) **What do I need as documentation to release or transfer interest in a vehicle acquired from an estate of a deceased person?**~~

~~If the estate is:~~

~~(a) Administered:~~

~~(i) Letters of testamentary; or~~

~~(ii) Letter of administration; or~~

~~(iii) Certificate of county clerk.~~

~~(b) Joint tenants with rights of survivorship:~~

~~Copy of death certificate.~~

~~(c) Community property:~~

~~(i) Copy of the death certificate; and~~

~~(ii) A copy of the community property agreement.~~

~~(d) Not administered:~~

~~(i) Copy of death certificate; and~~

~~(ii) Affidavit of inheritance; or~~

~~(iii) Affidavit of succession.~~

#### **REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 308-56A-355

Owner deceased—In name of estate.

#### **WSR 01-03-003**

#### **PERMANENT RULES**

#### **PERSONNEL RESOURCES BOARD**

[Filed January 4, 2001, 10:51 a.m., effective May 1, 2001]

Date of Adoption: January 3, 2001.

Purpose: These modifications address the movement and return rights of permanent WMS employees who move with the general service. This modification also allows agencies to extend the review period by the number or work hours in excess of one hundred seventy-four hours that an employee is on sick leave, leave used in lieu of sick leave and leave without pay. Additional clarifying language has been added to define an employee's status when moving during a review period.

Citation of Existing Rules Affected by this Order: Amending WAC 356-56-210 and 356-56-220.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 00-23-133 on November 22, 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: May 1, 2001.

January 3, 2001

Dennis Karras

Director

**AMENDATORY SECTION** (Amending WSR 94-12-055, filed 5/27/94, effective 7/1/94)

**WAC 356-56-210 Movement between Washington management service and Washington general service positions.** (1) Employees who have attained permanent status, or who have completed six months of the review period in the Washington management service are eligible to compete under promotional recruitments for Washington general service positions.

(2) Permanent employees may transfer from the Washington management service to Washington general service positions if their salary is within the salary range of the Washington general service position.

(3) Permanent employees may transfer from Washington general service to Washington management service positions if their salary is within the management band of the Washington management service position.

(4) Permanent employees may voluntarily demote between Washington management service and Washington general service positions at a lower pay level than their current permanent position.

(5) Permanent WMS employees may accept temporary employment in the general service as provided in WAC 356-30-067. Upon termination of such temporary appointment, the employee shall have the right to resume the same or similar permanent Washington management service position within their permanent agency, at their former status.

(6) Permanent WMS employees may accept project employment in the general service as provided in WAC 356-30-145. Upon reduction in force from the project, or at the request of the employee, the employee will have reduction in force rights of the permanent Washington management service position they left. Employees who entered the project through the competitive process and remain in project status for two years shall be eligible to have their names placed on the agency reduction in force register for the general service classes in which permanent project status was attained.

(7) Permanent employees who promote or voluntarily demote from the Washington management service to the Washington general service and who are either voluntarily or

involuntarily reverted during the trial service period may have reversion rights or may be placed in the reduction-in-force transition pool as provided in WAC 356-30-320 and 356-30-331.

**AMENDATORY SECTION** (Amending WSR 94-12-055, filed 5/27/94, effective 7/1/94)

**WAC 356-56-220 Review period—Attaining permanent status.** (1) The review period for an appointee to a position within the Washington management service is a period of time to allow the employer to ensure the appointee meets the performance and other requirements of the position.

(2) Based on the nature of the job and the skills of the appointee, the review period will be between twelve and eighteen months as determined by the appointing authority. The appointing authority will inform the appointee in writing at the time of appointment of the length of the review period.

(3) Appointees from outside state service and promotional appointees will attain permanent status in the position upon successful completion of the review period.

(4) An appointing authority may require an employee who transfers or voluntarily demotes to serve a review period. The employer may extend the review period by the number of work hours in excess of 174 hours that the employee is on sick leave, leave used in lieu of sick leave, and leave without pay. The granting of leave shall be in compliance with Chapter 356-18 WAC and the Fair Labor Standards Act.

(5) An employee who is promoted to a different Washington management service position in the same agency during the review period, will begin a new review period for the new position. The employee will concurrently serve both the original and the new review period and will attain permanent status as a state employee in the original position when the original review period elapses.

(6) An employee who is promoted to a different Washington management service position in a different agency during the review period will begin a new review period for the new position. The employee will not attain permanent status in the original position in the former agency unless agreed to in writing by the appointing authorities in both agencies.

~~((6))~~ (7) An employee who is appointed to a Washington management service position from a Washington general service position in the same agency while serving a probationary or trial service period in the same or similar occupational field will serve the trial service or probationary period concurrently with the review period. The employee will attain permanent status in the previous job classification once the original probationary or trial service period elapses.

(8) An employee who is appointed to a Washington management service position from a Washington general service position in a different agency while serving in a probationary or trial service period will not attain permanent status in the original position in the former agency unless agreed to in writing by the appointing authorities in both agencies.

~~((7))~~ (9) The agency may require a review period when the employee remains in the same position and receives a promotion.

PERMANENT

**WSR 01-03-009**  
**PERMANENT RULES**  
**EMPLOYMENT SECURITY DEPARTMENT**

[Filed January 5, 2001, 11:11 a.m.]

Date of Adoption: January 5, 2001.

Purpose: Repeal of WAC 192-16-061. The Superior Court consent decree which mandated adoption of this regulation has been dissolved. As a result, the rule is no longer necessary.

Citation of Existing Rules Affected by this Order: Repealing WAC 192-16-061.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Adopted under preproposal statement of inquiry filed as WSR 00-23-103 on November 21, 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 1; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 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 5, 2001

Carver Gayton

Commissioner

601, 604, 605, 625, 626, 627, 628, 630, 701, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1132, 1313, 1322, 1323, 1331, 1334, 1410, 1411, 1412, 1414, 1415, 1416, 1423, 1433, 1435, 1438, 1439, 1443, 1512, 1513, 1521, 1530, 1531, 1532, 99902, 99903, and 99904.

Statutory Authority for Adoption: RCW 19.27A.025, 19.27A.045.

Adopted under notice filed as WSR 00-18-017 on August 28, 2000.

Changes Other than Editing from Proposed to Adopted Version: The proposed amendments to the following sections were **not** adopted: (502.1.5.1, exception 3), 504.5.2, (Tables 5-1, 6-2, 6-4, and 6-6), 602.5, 1312.1, 1412.4.1, (1412.8 and RS-29 Section 3.6.5), (1433 and 1401), (Tables 14-1, 14-2, and 14-3). In addition, the proposal to amend Section 502.1.1 and Table 10-5A (Section 1005) was altered to include the entire table (the roof values were lost in the proposed rule). Also, Table 10-6C (Section 1006) was altered to include a column of values for "Double Glazing with 1/4" Airspace." Also, Section 1411.1 was altered to add the words "nationally recognized" for clarification. Also, Section 1435, exception 1i was altered deleting the second and third sentence for simplicity. Finally, Section 1438 neither option was adopted, instead there was one word changed from "frequency" to "speed."

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 3, Amended 49, Repealed 13.

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 3, Amended 49, Repealed 13.

Effective Date of Rule: July 1, 2001.

January 3, 2001

Tim Nogler

for Jim Lewis

Council Vice Chair

PERMANENT

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 192-16-061	Interpretive regulation—Permanent residence in the United States under color of law—RCW 50.20.098
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**WSR 01-03-010**  
**PERMANENT RULES**  
**BUILDING CODE COUNCIL**

[Filed January 5, 2001, 11:26 a.m., effective July 1, 2001]

Date of Adoption: November 17, 2000.

Purpose: To make changes to the Washington State Energy Code, chapter 51-11 WAC.

Citation of Existing Rules Affected by this Order: Chapter 51-11 WAC. Repealing sections 1201, 1210, 1701, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008 and 2009; and amending sections 101, 201, 502, 503, 504, 505, 530,

**AMENDATORY SECTION** (Amending WSR 98-24-078, filed 12/1/98, effective 7/1/99)

**WAC 51-11-0101 Section 101. Scope and general requirements.**

101.1 Title: Chapters 1 through 10 of this Code shall be known as the "Washington State Residential Energy Code" and may be cited as such; and will be referred to herein as "this Code."

101.2 Purpose and Intent: The purpose of this Code is to provide minimum standards for new or altered buildings and

structures or portions thereof to achieve efficient use and conservation of energy.

The purpose of this Code is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefitted by the terms of this Code.

It is intended that these provisions provide flexibility to permit the use of innovative approaches and techniques to achieve efficient use and conservation of energy. These provisions are structured to permit compliance with the intent of this Code by any one of the following three paths of design:

1. A systems analysis approach for the entire building and its energy-using sub-systems which may utilize renewable energy sources, Chapter 4.
2. A component performance approach for various building elements and mechanical systems and components, Chapter 5.
3. A prescriptive requirements approach, Chapter 6.

Compliance with any one of these approaches meets the intent of this Code. This Code is not intended to abridge any safety or health requirements required under any other applicable codes or ordinances.

The provisions of this Code do not consider the efficiency of various energy forms as they are delivered to the building envelope. A determination of delivered energy efficiencies in conjunction with this Code will provide the most efficient use of available energy in new building construction.

**101.3 Scope:** This Code sets forth minimum requirements for the design of new buildings and structures that provide facilities or shelter for residential occupancies by regulating their exterior envelopes and the selection of their HVAC, service water heating systems and equipment for efficient use and conservation of energy.

Buildings shall be designed to comply with the requirements of either Chapter 4, 5, or 6 of this Code.

**101.3.1 Exempt Buildings:** Buildings and structures or portions thereof meeting any of the following criteria shall be exempt from the building envelope requirements of sections 502 and 602, but shall comply with all other requirements for building mechanical systems, and service water heating.

**101.3.1.1:** Buildings and structures or portions thereof whose peak design rate of energy usage is less than three and four tenths (3.4) Btu/h per square foot or one point zero (1.0) watt per square foot of floor area for space conditioning requirements.

**101.3.1.2:** Buildings and structures or portions thereof which are neither heated according to the definition of heated space in Chapter 2, nor cooled by a nonrenewable energy source, provided that the nonrenewable energy use for space conditioning complies with requirements of section 101.3.1.1.

**101.3.1.3:** Greenhouses isolated from any conditioned space and not intended for occupancy.

**101.3.1.4:** The provisions of this code do not apply to the construction, alteration, or repair of temporary worker housing except as provided by rule adopted under chapter 70.114A RCW or chapter 37, Laws of 1998 (SB 6168). "Temporary worker housing" means a place, area, or piece of land where sleeping places or housing sites are provided by an employer for his or her employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees, for temporary, seasonal occupancy, and includes "labor camps" under RCW 70.54.110.

**101.3.2 Application to Existing Buildings:** Additions, historic buildings, changes of occupancy or use, and alterations or repairs shall comply with the requirements in the subsections below.

**EXCEPTION:** The building official may approve designs of alterations or repairs which do not fully conform with all of the requirements of this Code where in the opinion of the building official full compliance is physically impossible and/or economically impractical and:

1. The alteration or repair improves the energy efficiency of the building; or
2. The alteration or repair is energy efficient and is necessary for the health, safety, and welfare of the general public.

In no case, shall building envelope requirements or mechanical system requirements be less than those requirements in effect at the time of the initial construction of the building.

**101.3.2.1 Additions to Existing Buildings:** Additions to existing buildings or structures may be made to such buildings or structures without making the entire building or structure comply, provided that the new additions shall conform to the provisions of this Code.

**EXCEPTION:** New additions which do not fully comply with the requirements of this Code and which have a floor area which is less than seven hundred fifty square feet shall be approved provided that improvements are made to the existing occupancy to compensate for any deficiencies in the new addition. Compliance shall be demonstrated by either systems analysis or component performance calculations. The nonconforming addition and upgraded, existing occupancy shall have an energy budget or ((heat loss)) Target UA which is less than or equal to the unimproved existing building (minus any elements which are no longer part of the building envelope once the addition is added), with the addition designed to comply with this Code.

**101.3.2.2 Historic Buildings:** The building official may modify the specific requirements of this Code for historic buildings and require in lieu thereof alternate requirements which will result in a reasonable degree of energy efficiency. This modification may be allowed for those buildings which have been specifically designated as historically significant by the state or local governing body, or listed in The National Register of Historic Places or which have been determined to be eligible for listing.

**101.3.2.3 Change of Occupancy or Use:**

Any Other than Group R Occupancy which is converted to Group R Occupancy shall be brought into full compliance with this Code.

**101.3.2.4 Alterations and Repairs:** All alterations and repairs to buildings or portions thereof originally constructed subject to the requirements of this Code shall conform to the provisions of this Code without exception. For all other existing buildings, initial tenant alterations shall comply with the new construction requirements of this Code. Other alterations and repairs may be made to existing buildings and moved buildings without making the entire building comply with all of the requirements of this Code for new buildings, provided the following requirements are met:

**101.3.2.5 Building Envelope:** The result of the alterations or repairs both:

1. Improves the energy efficiency of the building, and
2. Complies with the overall average thermal transmittance values of the elements of the exterior building envelope in Table 5-1 of Chapter 5 or the nominal R-values and glazing requirements of the reference case in Tables 6-1 to 6-6.

**EXCEPTIONS:**

1. Untested storm windows may be installed over existing glazing for an assumed U-factor of 0.90, however, where glass and sash are being replaced in Group R Occupancy, glazing shall comply with the appropriate reference case in Table 6-1 through Table 6-6.
2. Where the structural elements of the altered portions of roof/ceiling, wall or floor are not being replaced, these elements shall be deemed to comply with this Code if all existing framing cavities which are exposed during construction are filled to the full depth with batt insulation or insulation having an equivalent nominal R-value while, for roof/ceilings, maintaining the required space for ventilation. Existing walls and floors without framing cavities need not be insulated. Existing roofs shall be insulated to the requirements of this Code if
  - a. The roof is uninsulated or insulation is removed to the level of the sheathing, or
  - b. All insulation in the roof/ceiling was previously installed exterior to the sheathing or nonexistent.

**101.3.2.6 Building Mechanical Systems:** Those parts of systems which are altered or replaced shall comply with section 503 of this Code.

**101.3.2.7 Service Water Heating:** Those parts of systems which are altered or replaced shall comply with section 504.

**101.3.2.8 ((Reserved)) Lighting:** Alterations shall comply with section 1132.3.

**EXCEPTION:** Group R-3 occupancy and the dwelling unit portions of Group R-1 occupancy.

**101.3.3 Mixed Occupancy:** When a building houses more than one occupancy, each portion of the building shall conform to the requirements for the occupancy housed therein. Where approved by the building official, where minor accessory uses do not occupy more than ten percent of the area of any floor of a building, the major use may be considered the building occupancy.

**101.4 Amendments by Local Government:** Except as provided in RCW 19.27A.020(7), this Code shall be the maximum and minimum energy code for Group R Occupancy in each town, city and county, no later than July 1, 1991.

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-0201 ((General definitions.)) Scope.** The following definitions shall apply to chapters 1 through 20.

**201.1 Application of Terms:** For the purposes of this Code, certain abbreviations, terms, phrases, words and their derivatives, shall be as set forth in this chapter. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. In the event there is a question about the definition of a term, the definitions for terms in the codes enumerated in RCW 19.27.031 and the edition of Webster's dictionary referenced therein shall be considered as the sources for providing ordinarily accepted meanings.

**Addition:** See the Washington State Building Code.

**Advanced framed ceiling:** Advanced framing assumes full and even depth of insulation extending to the outside edge of exterior walls. (See Standard Framing and Section 1007.2 of this Code.)

**Advanced framed walls:** Studs framed on twenty-four inch centers with double top plate and single bottom plate. Corners use two studs or other means of fully insulating corners, and one stud is used to support each header. Headers consist of double 2X material with R-10 insulation between the header and exterior sheathing. Interior partition wall/exterior wall intersections are fully insulated in the exterior wall. (See Standard Framing and Section 1005.2 of this Code.)

**AFUE. Annual fuel utilization efficiency:** Unlike steady state conditions, this rating is based on average usage including on and off cycling as set out in the standardized Department of Energy Test Procedures.

**Air conditioning, comfort:** The process of treating air to control simultaneously its temperature, humidity, cleanliness and distribution to meet requirements of the conditioned space.

**ARI:** Air-Conditioning and Refrigeration Institute.

**ASHRAE:** American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc.

**ASTM:** American Society for Testing and Materials

**Automatic:** Self-acting, operating by its own mechanism when actuated by some impersonal influence, as for example, a change in current strength, pressure, temperature or mechanical configuration. (See **Manual.**)

**Below grade walls:** Walls or the portion of walls which are entirely below the finish grade or which extend two feet or less above the finish grade.

~~(Building, existing: See the Washington State Building Code.)~~

**Boiler capacity:** The rate of heat output in Btu/h measured at the boiler outlet, at the design inlet and outlet conditions and rated fuel/energy input.

**Building envelope:** For Group R occupancy, the elements of a building which enclose conditioned spaces through which thermal energy may be transferred to or from the exterior or to or from spaces exempted by the provisions of Section 101.3.1. For other than Group R occupancy, the elements of a building which enclose conditioned spaces through which thermal energy may be transferred to or from the exterior, or to or from unconditioned spaces, or to or from semi-heated spaces, or to or from spaces exempted by the provisions of Section 1301.

**Building, existing:** See the Washington State Building Code.

**Building official:** The official authorized to act in behalf of a jurisdiction code enforcement agency or its authorized representative.

**Building project:** A building or group of buildings, including on-site energy conversion or electric-generating facilities, which utilize a single submittal for a construction permit or are within the boundary of a contiguous area under one ownership.

~~(**Comfort envelope:** The area on a psychrometric chart enclosing all those conditions described in Standard RS-4, Figure No. 1, as being comfortable.)~~

**Conditioned floor area:** (See Gross conditioned floor area.)

**Conditioned space:** ~~((All spaces which are provided with heated and/or cooled air or which are capable of being maintained at temperatures over fifty degrees F during the heating season, including adjacent connected spaces separated by an uninsulated component (e.g., basements, utility rooms, garages, corridors.))~~ A cooled space, heated space (fully heated), heated space (semi-heated) or indirectly conditioned space.

~~**Cooled space:** ((Space within a building which is provided with a positive cooling supply.))~~ An enclosed space within a building that is cooled by a cooling system whose sensible capacity

a. exceeds 5 Btu/(h • ft<sup>2</sup>), or

b. is capable of maintaining space dry bulb temperature of 90°F or less at design cooling conditions.

**COP - Coefficient of performance:** The ratio of the rate of net heat output (heating mode) or heat removal (cooling mode) to the rate of total on-site energy input to the heat pump, expressed in consistent units and under designated rating conditions. (See Net Heat Output, Net Heat Removal, Total On-Site Energy Input.)

**Daylighted zone:**

a. Under overhead glazing: the area under overhead glazing whose horizontal dimension, in each direction, is equal to the overhead glazing dimension in that direction plus either the floor to ceiling height or the dimension to a ceiling height opaque partition, or one-half the distance to adjacent overhead or vertical glazing, whichever is least.

b. At vertical glazing: the area adjacent to vertical glazing which receives daylighting from the glazing. For purposes of this definition and unless more detailed daylighting analysis is provided, the daylighting zone depth is assumed to extend into the space a distance of 15 feet or to the nearest

ceiling height opaque partition, whichever is less. The daylighting zone width is assumed to be the width of the window plus either two feet on each side (the distance to an opaque partition) or one-half the distance to adjacent overhead or vertical glazing, whichever is least.

**Daylight sensing control (DS):** A device that automatically regulates the power input to electric lighting near the glazing to maintain the desired workplace illumination, thus taking advantage of direct or indirect sunlight.

**Deadband:** The temperature range in which no heating or cooling is used.

~~(**Degree-day, heating:** A unit, based upon temperature difference and time, used in estimating fuel consumption and specifying nominal heating load of a building in winter. For any one day when the mean temperature is less than sixty-five degrees F there exist as many degree days as there are Fahrenheit degrees difference in temperature between the mean temperature for the day and sixty five degrees F.))~~

**Design cooling conditions:** The cooling outdoor design temperature from the 0.5% column for summer from the Puget Sound Chapter of ASHRAE publication "Recommended Outdoor Design Temperatures, Washington State, ASHRAE."

**Design heating conditions:** The heating outdoor design temperature from the 0.6% column for winter from the Puget Sound Chapter of ASHRAE publication "Recommended Outdoor Design Temperatures, Washington State, ASHRAE."

**Door:** ~~((An operable opening area in the shell of a conditioned space, excluding sliding glass doors, which is designed and used as a means of ingress and egress. A door may also include a double door one of which is fixed and one of which is operable.))~~ All operable opening areas, which are not glazing, in the building envelope including swinging and roll-up doors, fire doors, smoke vents and access hatches.

**Door area:** Total area of door measured using the rough opening and including the door and frame.

**Dwelling unit:** See the Washington State Building Code.

**EER, Energy efficiency ratio:** The ratio of net equipment cooling capacity in Btu/h to total rate of electric input in watts under designated operating conditions.

**Economizer, air:** A ducting arrangement and automatic control system that allows a cooling supply fan system to supply outside air to reduce or eliminate the need for mechanical refrigeration during mild or cold weather.

**Economizer, water:** A system by which the supply air of a cooling system is cooled directly, indirectly or both, by evaporation of water or by other appropriate fluid in order to reduce or eliminate the need for mechanical refrigeration.

**Efficiency, HVAC system:** The ratio of useful energy (at the point of use) to the energy input for a designated time period, expressed in percent.

**Emissivity:** The ability to absorb infrared radiation. A low emissivity implies a higher reflectance of infrared radiation.

**Energy:** The capacity for doing work; taking a number of forms which may be transformed from one into another,

such as thermal (heat), mechanical (work), electrical and chemical; in customary units, measured in kilowatt-hours (kWh) or British thermal units (Btu). (See **New energy**.)

**Energy, recovered:** (See **Recovered energy**.)

**Exterior envelope:** (See **Building envelope**.)

**Facade area:** Vertical projected area including nonhorizontal roof area, overhangs, cornices, etc. measured in elevation in a vertical plane parallel to the plane of the building face.

**Floor over unconditioned space:** A floor which separates a conditioned space from an unconditioned space which is buffered from exterior ambient conditions including vented crawl spaces and unconditioned basements or other similar spaces, or exposed to exterior ambient conditions including open parking garages and enclosed garages which are mechanically ventilated.

**F-Factor:** The perimeter heat loss factor expressed in Btu/hr • ft • °F.

**F-Value:** (See F-Factor.)

**Garden window:** A multi-sided glazing product that projects beyond the plane of the wall.

**Glazed wall system:** A category of site assembled fenestration products used in the NFRC 100 and NFRC 200 rating procedures that include curtainwalls.

**Glazing:** All areas, including the frames, in the shell of a conditioned space that let in natural light including windows, clerestories, skylights, sliding or swinging glass doors and glass block walls. ((The daylight opening area in all other doors shall be considered glazing for the purpose of calculating glazing area. The daylight opening area in all other doors is included in the door U-factor and shall not be considered in calculations of glazing U-factors.))

**Glazing area:** Total area of the glazing measured using the rough opening, and including the glazing, sash, and frame. ((For sliding glass doors the glazing area is the rough opening area. For all other doors the glazing area is the daylight opening area.)) For doors where the daylight opening area is less than 50% of the door area, the glazing area is the daylight opening area. For all other doors, the glazing area is the door area.

**Gross conditioned floor area:** The horizontal projection of that portion of interior space which is contained within exterior walls and which is conditioned directly or indirectly by an energy-using system, and which has an average height of five feet or greater, measured from the exterior faces.

**Gross exterior wall area:** The normal projection of the building envelope wall area bounding interior space which is conditioned by an energy-using system and which separates conditioned space from: Unconditioned space, or semi-heated space, or exterior ambient conditions or earth; includes opaque wall, ((window)) vertical glazing and door areas. The gross area of walls consists of all opaque wall areas, including foundation walls, between floor spandrels, peripheral edges of floors, ((window)) vertical glazing areas ((including sash,)) and door areas, where such surfaces are exposed to exterior ambient conditions and enclose a conditioned space including interstitial areas between two such spaces. (See **Below grade wall**.)

**Gross floor area:** The sum of the areas of the several floors of the building, including basements, cellars, mezzanine and intermediate floored tiers and penthouses of headroom height, measured from the exterior faces of exterior walls or from the center line of walls separating buildings, but excluding: Covered walkways, open roofed-over areas, porches and similar spaces. Pipe trenches, exterior terraces or steps, chimneys, roof overhangs and similar features.

**Gross roof/ceiling area:** ((The sum of the areas of the roof/ceiling assembly, consisting of the total interior surface area of all elements, including skylights, which enclose a conditioned space.)) A roof/ceiling assembly shall be considered as all components of the roof/ceiling envelope through which heat flows, thus creating a building transmission heat loss or gain, where such assembly is exposed to exterior ambient conditions and encloses a conditioned space. The assembly does not include those components that are separated from a heated and/or cooled space by a vented airspace. The gross area of a roof/ceiling assembly consists of the total interior surface of such assembly, including overhead glazing.

**Guest room:** See the Washington State Building Code.

**Heat:** The form of energy that is transferred by virtue of a temperature difference.

**Heat storage capacity:** The physical property of materials (mass) located inside the building envelope to absorb, store, and release heat.

**Heated space (Fully heated):** ((Space within a building which is provided with a positive heating supply. Finished living space within a basement or registers or heating devices designed to supply heat to a basement space shall automatically define that space as heated space. (See Positive Heating Supply.)) An enclosed space within a building, including adjacent connected spaces separated by an uninsulated component (e.g., basements, utility rooms, garages, corridors), which is heated by a heating system whose output capacity is  

- a. Capable of maintaining a space dry-bulb temperature of 45°F or greater at design heating conditions; or
- b. 8 Btu/(h • ft<sup>2</sup>) or greater in Climate Zone 1 and 12 Btu/(h • ft<sup>2</sup>) or greater in Climate Zone 2.

**Heated space (Semi-heated):** An enclosed space within a building, including adjacent connected spaces separated by an uninsulated component (e.g., basements, utility rooms, garages, corridors), which is heated by a heating system

- a. whose output capacity is 3 Btu/(h • ft<sup>2</sup>) or greater in Climate Zone 1 and 5 Btu/(h • ft<sup>2</sup>) or greater in Climate Zone 2; and

- b. is not a Heated Space (Fully Heated).

**HSPF. Heating season performance factor:** The total heating output (in Btu) of a heat pump during its normal annual usage period for heating divided by the total (watt hour) electric power input during the same period, as determined by test procedures consistent with the U.S. Department of Energy "Test Procedure for Central Air Conditioners, Including Heat Pumps" published in ((the December 27, 1979, Federal Register, Vol 44, No. 24, IOCFR. 430)) Standard RS-30. When specified in Btu per watt hour an HSPF of 6.826 is equivalent to a COP of 2.0.



**Humidistat:** A regulatory device, actuated by changes in humidity, used for automatic control of relative humidity.

**HVAC:** Heating, ventilating and air conditioning.

**HVAC system components:** HVAC system components provide, in one or more factory-assembled packages, means for chilling and/or heating water with controlled temperature for delivery to terminal units serving the conditioned spaces of the buildings. Types of HVAC system components include, but are not limited to, water chiller packages, reciprocating condensing units and water source (hydronic) heat pumps. (See **HVAC system equipment**.)

**HVAC system efficiency:** (See **Efficiency, HVAC system**.)

**HVAC system equipment:** HVAC system equipment provides, in one (single package) or more (split system) factory-assembled packages, means for air circulation, air cleaning, air cooling with controlled temperature and dehumidification; and optionally, either alone or in combination with a heating plant, the functions of heating and humidifying. The cooling function may be either electrically or heat operated and the refrigerant condenser may be air, water or evaporatively cooled. Where the equipment is provided in more than one package, the separate packages shall be designed by the manufacturer to be used together. The equipment may provide the heating function as a heat pump or by the use of electric elements. (The word "equipment" used without modifying adjective may, in accordance with common industry usage, apply either to HVAC system equipment or HVAC system components.)

~~(**Illumination:** The density of the luminous flux incident on a surface; it is the quotient of the luminous flux by the area of the surface when the latter is uniformly illuminated.)~~

**Indirectly conditioned space:** An enclosed space within a building that is not a heated or cooled space, whose area weighted heat transfer coefficient to heated or cooled spaces exceeds that to the outdoors or to unconditioned spaces; or through which air from heated or cooled spaces is transferred at a rate exceeding three air changes per hour. Enclosed corridors between conditioned spaces shall be considered as indirectly conditioned space. (See **Heated Space, Cooled Space and Unconditioned Space**.)

**Infiltration:** The uncontrolled inward air leakage through cracks and interstices in any building element and around windows and doors of a building caused by the pressure effects of wind and/or the effect of differences in the indoor and outdoor air density.

**Insulation baffle:** A rigid material, resistant to wind driven moisture, the purpose of which is to allow air to flow freely into the attic or crawl space and to prevent insulation from blocking the ventilation of these spaces, or the loss of insulation. Example materials for this purpose are sheet metal, or wax impregnated cardboard.

**Insulation position:**

**a. Exterior Insulation Position:** a wall having all or nearly all of its mass exposed to the room air with the insulation on the exterior of the mass.

**b. Integral Insulation Position:** a wall having mass exposed to both room and outside air, with substantially

equal amounts of mass on the inside and outside of the insulation layer.

**c. Interior Insulation Position:** a wall not meeting either of the above definitions; particularly a wall having most of its mass external to the insulation layer.

**IPLV—Integrated part-load value:** A single number figure of merit based on part-load EER or COP expressing part-load efficiency for air conditioning and heat pump equipment on the basis of weighted operation at various load capacities for the equipment as specified in the Air-Conditioning and Refrigeration Institute (ARI) and Cooling Tower Institute (CTI) procedures.

**Luminaire:** A complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps and to connect the lamps to the electric power supply.

**Manual:** Capable of being operated by personal intervention. (See **Automatic**.)

**Microcell:** A wireless communication facility consisting of an antenna that is either: (a) Four (4) feet in height and with an area of not more than 580 square inches; or (b) if a tubular antenna, no more than four (4) inches in diameter and no more than six (6) feet in length; and the associated equipment cabinet that is six (6) feet or less in height and no more than 48 square feet in floor area.

**NFPA:** National Fire Protection Association.

**NFRC:** National Fenestration Rating Council.

**Net heat output:** The change in the total heat content of the air entering and leaving the equipment (not including supplementary heat and heat from boilers).

**Net heat removal:** The total difference in heat content of the air entering and leaving the equipment (without heat) or the difference in total heat content of the water or refrigerant entering and leaving the component.

**New energy:** Energy, other than recovered energy, utilized for the purpose of heating or cooling. (See **energy**.)

**Nominal R-value:** The thermal resistance of insulation as specified by the manufacturer according to recognized trade and engineering standards.

**Nonrenewable energy sources:** All energy sources that are not renewable energy sources including natural gas, oil, coal, wood, liquified petroleum gas, steam, and any utility-supplied electricity.

**Nonresidential:** All buildings and spaces in the Uniform Building Code (UBC) occupancies other than Group R.

**Occupancy:** See the Washington State Building Code.

**Occupancy sensor:** A device that detects occupants within an area, causing any combination of lighting, equipment or appliances to be turned on or shut off.

**Opaque envelope areas:** All exposed areas of a building envelope which enclose conditioned space, except openings for (~~windows, skylights,~~) doors, glazing and building service systems.

**Open blown:** Loose fill insulation pneumatically installed in an unconfined attic space.

**Outdoor air (outside air):** Air taken from the outdoors and, therefore, not previously circulated through (~~the system~~) a building.

**Overhead glazing:** A glazing surface that has a slope of less than 60° from the horizontal plane.

**Packaged terminal air conditioner:** A factory-selected combination of heating and cooling components, assemblies or sections intended to serve a room or zone. (For the complete technical definition, see Standard RS-10.)

~~((Packaged terminal heat pump: A factory-selected combination of heating and cooling components, assemblies or sections intended for application in an individual room or zone. (For the complete technical definition, see Standard RS-21.))~~

**Permeance (perm):** The ability of a material of specified thickness to transmit moisture in terms of amount of moisture transmitted per unit time for a specified area and differential pressure (grains per hour • ft<sup>2</sup> • inches of HG). Permeance may be measured using ASTM E-96-72 or other approved dry cup method as specified in ~~((RS-1))~~ RS-27.

**Personal wireless service facility:** A Wireless Communication Facility (WCF), including a microcell, which is a facility for the transmission and/or reception of radio frequency signals and which may include antennas, equipment shelter or cabinet, transmission cables, a support structure to achieve the necessary elevation, and reception and/or transmission devices or antennas.

**Pool cover:** A vapor-retardant cover which lies on or at the surface of the pool.

~~((Positive cooling supply: Mechanical cooling deliberately supplied to a space, such as through a supply register. Also, mechanical cooling indirectly supplied to a space through uninsulated surfaces of space cooling components, such as evaporator coil cases and cooling distribution systems which are capable of maintaining air temperatures within the space of eighty five degrees F, or lower, at the exterior design conditions specified in Section 302.1. To be considered exempt from inclusion in this definition, such surfaces shall comply with the insulation requirements of this Code.~~

**Positive heating supply:** Heat deliberately supplied to a space by design, such as a supply register, radiator or heating element. Also, heat indirectly supplied to a space through uninsulated surfaces of service water heaters and space heating components, such as furnaces, boilers and heating and cooling distributions systems which are capable of maintaining air temperature within the space of fifty degrees F, or higher, at the exterior design conditions specified in Section 302.1. To be considered exempt from inclusion in this definition, such surfaces shall comply with the insulation requirements of this Code.))

**Power:** In connection with machines, the time rate of doing work. In connection with the transmission of energy of all types, the rate at which energy is transmitted; in customary units, it is measured in watts (W) or British Thermal Units per hour (Btu/h).

~~((Public facility rest room: A rest room used by the transient public on a regular (rather than casual) basis. Examples include rest rooms in service stations, airports, train terminals and convention halls. Rest rooms incorporated with private guest rooms in hotels, motels or dormitories and rest~~

~~room facilities intended for the use of employees and not usually used by the general public are not considered public facility rest rooms.))~~ **Process energy:** Energy consumed in support of a manufacturing, industrial, or commercial process other than the maintenance of building comfort or amenities for building occupants.

**Radiant slab floor:** A slab floor assembly on grade or below, containing heated pipes, ducts, or electric heating cables that constitute a ~~((radiant slab))~~ floor or portion thereof for ~~((a))~~ complete or partial heating of the structure.

**Readily accessible:** See the Washington State Mechanical Code.

**Recooling:** The removal of heat by sensible cooling of the supply air (directly or indirectly) that has been previously heated above the temperature to which the air is to be supplied to the conditioned space for proper control of the temperature of that space.

**Recovered energy:** Energy utilized which would otherwise be wasted (i.e. not contribute to a desired end use) from an energy utilization system.

**Reheat:** The application of sensible heat to supply air that has been previously cooled below the temperature of the conditioned space by either mechanical refrigeration or the introduction of outdoor air to provide cooling.

**Renewable energy sources:** Renewable energy sources of energy (excluding minerals) are derived from: (1) incoming solar radiation, including but not limited to, natural daylighting and photosynthetic processes; (2) energy sources resulting from wind, waves and tides, lake or pond thermal differences; and (3) energy derived from the internal heat of the earth, including nocturnal thermal exchanges.

**Reset:** Adjustment of the set point of a control instrument to a higher or lower value automatically or manually to conserve energy.

**Roof/ceiling assembly:** ~~((A roof/ceiling assembly shall be considered as all components of the roof/ceiling envelope through which heat flows, thus creating a building transmission heat loss or gain, where such assembly is exposed exterior ambient conditions to and encloses a conditioned space. The gross area of a roof/ceiling assembly consists of the total interior surface of such assembly, including skylights.))~~ (See Gross roof/ceiling area.)

**SEER - Seasonal Energy Efficiency Ratio:** The total cooling output of an air conditioner during its normal annual usage period, in Btu's, divided by the total electric energy input in watt-hours, during the same period, as determined by 10 CFR, Part 430.

**Semi-heated space:** Sub-category of **Heated Space.** (See Heated Space.)

**Sequence:** A consecutive series of operations.

**Service systems:** All energy-using systems in a building that are operated to provide services for the occupants or processes housed therein, including HVAC, service water heating, illumination, transportation, cooking or food preparation, laundering or similar functions.

**Service water heating:** Supply of hot water for domestic or commercial purposes other than comfort heating.

**Shaded:** Glazed area which is externally protected from direct solar radiation by use of devices permanently affixed to the structure or by an adjacent building, topographical feature, or vegetation.

**Shading coefficient:** The ratio of solar heat gain occurring through nonopaque portions of the glazing, with or without integral shading devices, to the solar heat gain occurring through an equivalent area of unshaded, 1/8 inch thick, clear, double-strength glass.

Note: Heat gains to be compared under the same conditions. See Chapter 28 of Standard RS-27, listed in Chapter 7 of this Code.

**Shall:** Denotes a mandatory code requirement.

**Single family:** One and two family residential dwelling units with no more than two units in a single building.

**Skylight:** ~~((A glazing surface that has a slope of less than sixty degrees from the horizontal plane.))~~ (See Overhead glazing.)

**Slab-below-grade:** Any portion of a slab floor in contact with the ground which is more than 24 inches below the final elevation of the nearest exterior grade.

**Slab-on-grade, exterior:** Any portion of a slab floor in contact with the ground which is less than or equal to twenty-four inches below the final elevation of the nearest exterior grade.

~~((Slab below grade: Any portion of a slab floor in contact with the ground which is more than twenty-four inches below the final elevation of the nearest exterior grade.))~~

**Small business:** Any business entity (including a sole proprietorship, corporation, partnership, or other legal entity) which is owned and operated independently from all other businesses, which has the purpose of making a profit, and which has fifty or fewer employees, or which has a million dollars or less per year in gross sales, of window products.

**Solar energy source:** Source of natural daylighting and of thermal, chemical or electrical energy derived directly from conversion of incident solar radiation.

**Solar heat gain coefficient (SHGC):** The ratio of the solar heat gain entering the space through the glazing product to the incident solar radiation. Solar heat gain includes directly transmitted solar heat and absorbed solar radiation which is then reradiated, conducted or convected into the space.

**Split system:** Any heat pump or air conditioning unit which is provided in more than one assembly requiring refrigeration piping installed in the field.

**Standard framing:** All framing practices not defined as "intermediate" or "advanced" shall be considered standard. (See Advanced framed ceiling, Advanced framed walls, Intermediate framed wall and Section 1005.2 of this Code.)

**Substantial contact:** A condition where adjacent building materials are placed in a manner that proximal surfaces are contiguous, being installed and supported as to eliminate voids between materials, without compressing or degrading the thermal performance of either product.

**System:** A combination of central or terminal equipment or components and/or controls, accessories, interconnecting means, and terminal devices by which energy is

transformed so as to perform a specific function, such as HVAC, service water heating or illumination.

**Tapering:** Installation of a reduced level of ceiling insulation at the eaves, due to reduced clearance.

**Thermal by-pass:** An area where the envelope surrounding the conditioned space is breached, or where an ineffective application compromises the performance of a thermal or infiltration barrier, increasing the structure's energy consumption by exposing finished surfaces to ambient conditions and additional heat transfer.

**Thermal conductance (C):** Time rate of heat flow through a body (frequently per unit area) from one of its bounding surfaces to the other for a unit temperature difference between the two surfaces, under steady conditions (Btu/hr • ft<sup>2</sup> • °F).

**Thermal resistance (R):** The reciprocal of thermal conductance (hr • ft<sup>2</sup> • °F/Btu).

**Thermal transmittance (U):** The coefficient of heat transmission (air to air). It is the time rate of heat flow per unit area and unit temperature difference between the warm side and cold side air films (Btu/hr • ft<sup>2</sup> • °F). ~~((The U-factor applies to the fractional combinations of different materials used in series along the heat flow path.))~~

**Thermal transmittance, overall (U<sub>o</sub>):** The overall (average) heat transmission of a gross area of the exterior building envelope (Btu/hr • ft<sup>2</sup> • °F). The U<sub>o</sub>-factor applies to the combined effect of the time rate of heat flows through the various parallel paths, such as ~~((windows,))~~ glazing, doors and opaque construction areas, comprising the gross area of one or more exterior building components, such as walls, floors or roof/ceiling.

**Thermostat:** An automatic control device actuated by temperature and designed to be responsive to temperature.

**Total on-site energy input:** The combination of all the energy inputs to all elements and accessories as included in the equipment components, including but not limited to, compressor(s), compressor sump heater(s), circulating pump(s), purge devices, fan(s), and the HVAC system component control circuit.

**Transmission coefficient:** The ratio of the solar heat gain through a glazing system to that of an unshaded single pane of double strength window glass under the same set of conditions.

**U-factor:** (See thermal transmittance.)

**U-Value:** (See U-factor.)

**Uniform Building Code (UBC):** ~~((The Washington State Uniform Building Code as modified by the Washington State Building Code Council.))~~ (See Washington State Building Code.)

**Uniform Mechanical Code (UMC):** ~~((The Washington State Uniform Mechanical Code as modified by the Washington State Building Code Council.))~~ (See Washington State Mechanical Code.)

**Uniform Plumbing Code (UPC):** (See Washington State Plumbing Code.)

**Unitary cooling and heating equipment:** One or more factory-made assemblies which include an evaporator or cooling coil, a compressor and condenser combination, and

may include a heating function as well. Where such equipment is provided in more than one assembly, the separate assemblies shall be designed to be used together.

**Unitary heat pump:** One or more factory-made assemblies which include an indoor conditioning coil, compressor(s) and outdoor coil or refrigerant-to-water heat exchanger, including means to provide both heating and cooling functions. When such equipment is provided in more than one assembly, the separate assemblies shall be designed to be used together.

**Vapor retarder:** A layer of low moisture transmissivity material (not more than 1.0 perm dry cup) placed over the warm side (in winter) of insulation, over the exterior of below grade walls, and under floors as ground cover to limit the transport of water and water vapor through exterior walls, ceilings, and floors. Vapor retarding paint, listed for this application, also ~~((complies with this Code))~~ meets this definition.

**Vaulted ceilings:** All ceilings where enclosed joist or rafter space is formed by ceilings applied directly to the underside of roof joists or rafters.

**Ventilation:** The process of supplying or removing air by natural or mechanical means to or from any space. Such air may or may not have been conditioned.

**Ventilation air:** That portion of supply air which comes from outside (outdoors) plus any recirculated air that has been treated to maintain the desired quality of air within a designated space.

**Vertical glazing:** A glazing surface that has a slope of 60° or greater from the horizontal plane.

**Walls (exterior):** Any member or group of members which defines the exterior boundaries or courts of a building and which have a slope of sixty degrees or greater with the horizontal plane, and separates conditioned from unconditioned space. Band joists between floors are to be considered a part of exterior walls.

**Washington State Building Code:** The building code as modified by the Washington State Building Code Council.

**Washington State Mechanical Code:** The mechanical code as modified by the Washington State Building Code Council.

**Washington State Plumbing Code:** The plumbing code as modified by the Washington State Building Code Council.

**Zone:** A space or group of spaces within a building with heating and/or cooling requirements sufficiently similar so that comfort conditions can be maintained throughout by a single controlling device. Each dwelling unit in residential buildings shall be considered a single zone.

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-0502 Building envelope requirements.**

502.1 General:

502.1.1: The stated U- or F-factor of any component assembly, listed in Table 5-1 or 5-2, such as roof/ceiling, opaque wall or opaque floor may be increased and the U-factor for other components decreased, provided that the total heat gain or loss for the entire building envelope does not exceed the total resulting from compliance to the U-factors specified in this Section.

The U-factors for typical construction assemblies are included in Chapter 10. These values shall be used for all calculations. Where proposed construction assemblies are not represented in Chapter 10, values shall be calculated in accordance with Chapters 21-29 in Standard RS-1 listed in Chapter 7, using the framing factors listed in Chapter 10 where applicable.

For envelope assemblies containing metal framing, the U-factor shall be determined by one of the following methods:

1. Results of laboratory or field measurements.
2. Standard RS-25, listed in Chapter 7, where the metal framing is bonded on one or both sides to a metal skin or covering.
3. The zone method as provided in Chapter 24 of Standard RS-1, listed in Chapter 7.
4. Results of parallel path correction factors effective framing/cavity R-values as provided ~~((from the following table for metal stud walls and roof ceilings:))~~ in Table 10-5A - EFFECTIVE R-VALUES FOR METAL FRAMING AND CAVITY ONLY for metal stud walls and roof/ceilings.

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	((Framing		Cavity Insulation		
	Nominal Depth, Inches	Actual Depth, Inches	Nominal R-Value	Effective R-Value	
				Framing 16" o.e.	Framing 24" o.e.
Wall	4	3-1/2	R-11	R-5.5	R-6.6
	4	3-1/2	R-13	R-6.0	R-7.2
	4	3-1/2	R-15	R-6.4	R-7.8
	6	5-1/2	R-19	R-7.1	R-8.6
	6	5-1/2	R-21	R-7.4	R-9.0
	8	7-1/4	R-25	R-7.8	R-9.6
		Insulation	R-11	R-5.5	R-6.1

	((Framing		Cavity Insulation		
	Nominal Depth, Inches	Actual Depth, Inches	Nominal R-Value	Effective R-Value	
				Framing 16" o.c.	Framing 24" o.c.
Roof		is uncompressed	R-19 R-30	R-7.0 R-9.3	R-9.1 R-11.4))

502.1.2: For consideration of thermal mass effects, see section 402.4.

502.1.3: When return air ceiling plenums are employed, the roof/ceiling assembly shall:

a. For thermal transmittance purposes, not include the ceiling proper nor the plenum space as part of the assembly; and

b. For gross area purposes, be based upon the interior face of the upper plenum surface.

502.1.4 Insulation:

502.1.4.1 General: All insulating materials shall comply with sections 2602 and/or 707 of the Uniform Building Code. Substantial contact of the insulation with the surface being insulated is required. All insulation materials shall be installed according to the manufacturer's instructions to achieve proper densities and maintain uniform R-values and shall be installed in a manner which will permit inspection of the manufacturer's R-value identification mark. To the maximum extent possible, insulation shall extend over the full component area to the intended R-value.

Alternatively, the thickness of roof/ceiling and wall insulation that is either blown in or spray-applied shall be identified by inches of thickness, density and R-value markers installed at least one for every 300 square feet (28 m<sup>2</sup>) through the attic, ceiling and/or wall space. In attics, the markers shall be affixed to the trusses or joists and marked with the minimum initial installed thickness and minimum settled thickness with numbers a minimum 1.0 inch (25 mm) in height. Each marker shall face the attic access. The thickness of installed attic insulation shall meet or exceed the minimum initial installed thickness shown by the marker. In cathedral ceilings and walls, the markers shall be affixed to the rafter and wall frame at alternating high and low intervals and marked with the minimum installed density and R-value with numbers a minimum 1.0 inch (25 mm) in height. Each marker shall face the conditioned room area.

502.1.4.2 Insulation Materials: All insulation materials including facings such as vapor barriers or breather papers installed within floor/ceiling assemblies, roof/ceiling assemblies, walls, crawl spaces, or attics shall have a flame spread rating of less than 25 and a smoke density not to exceed 450 when tested in accordance with UBC Standard 8-1.

- EXCEPTIONS:
1. Foam plastic insulation shall comply with section 2602 of the Uniform Building Code.
  2. When such materials are installed in concealed spaces of Types III, IV and V construction, the flame spread and smoke developed limitations do not apply to facing, provided that the facing is

installed in substantial contact with the unexposed surface of the ceiling, floor or wall finish.

3. Cellulose insulation shall comply with section 707 of the Uniform Building Code.

502.1.4.3 Clearances: Where required, insulation shall be installed with clearances according to manufacturer's specifications. Insulation shall be installed so that required ventilation is unobstructed. For blown or poured loose fill insulation, clearances shall be maintained through installation of a permanent retainer.

502.1.4.4 Access Hatches and Doors: Access doors from conditioned spaces to unconditioned spaces (e.g., attics and crawl spaces) shall be weatherstripped and insulated to a level equivalent to the insulation on the surrounding surfaces. Access shall be provided to all equipment which prevents damaging or compressing the insulation. A wood framed or equivalent baffle or retainer must be provided when loose fill insulation is installed, the purpose of which is to prevent the loose fill insulation from spilling into the living space when the attic access is opened, and to provide a permanent means of maintaining the installed R-value of the loose fill insulation.

502.1.4.5 Roof/Ceiling Insulation: Open-blown or poured loose fill insulation may be used in attic spaces where the slope of the ceiling is not more than 3 feet in 12 and there is at least 30 inches of clear distance from the top of the bottom chord of the truss or ceiling joist to the underside of the sheathing at the roof ridge. When eave vents are installed, baffling of the vent openings shall be provided so as to deflect the incoming air above the surface of the insulation. Baffles shall be, rigid material, resistant to wind driven moisture. Requirements for baffles for ceiling insulation shall meet the Uniform Building Code section 1505.3 for minimum ventilation requirements. When feasible, the baffles shall be installed from the top of the outside of the exterior wall, extending inward, to a point 6 inches vertically above the height of noncompressed insulation, and 12 inches vertically above loose fill insulation.

502.1.4.6 Wall Insulation: Insulation installed in exterior walls shall comply with the provisions of this section. All wall insulation shall fill the entire framed cavity. Exterior wall cavities isolated during framing shall be fully insulated to the levels of the surrounding walls. All faced insulation shall be face stapled to avoid compression.

502.1.4.7 Floor Insulation: Floor insulation shall be installed in a permanent manner in substantial contact with the surface being insulated. Insulation supports shall be installed so spacing is no more than 24 inches on center. Foundation vents shall be placed so that the top of the vent is below the lower surface of the floor insulation.

PERMANENT

**EXCEPTION:** Insulation may be omitted from floor areas over heated basements, heated garages or underfloor areas used as HVAC supply plenums. See Uniform Mechanical Code section 607 for underfloor supply plenum requirements. When foundation walls are insulated, the insulation shall be attached in a permanent manner. The insulation shall not block the airflow through foundation vents when installed. When foundation vents are not placed so that the top of the vent is below the lower surface of the floor insulation, a permanently attached baffle shall be installed at an angle of 30° from horizontal, to divert air flow below the lower surface of the floor insulation.

**502.1.4.8 Slab-On-Grade:** Slab-on-grade insulation, installed inside the foundation wall, shall extend downward from the top of the slab for a minimum distance of 24 inches or downward and then horizontally beneath the slab for a minimum combined distance of 24 inches. Insulation installed outside the foundation shall extend downward to a minimum of 24 inches or to the frostline. Above grade insulation shall be protected.

**EXCEPTION:** For monolithic slabs, the insulation shall extend downward from the top of the slab to the bottom of the footing.

**502.1.4.9 Radiant Slabs:** The entire area of a radiant slab shall be thermally isolated from the soil, with a minimum of R-10 insulation. The insulation shall be an approved product for its intended use. If a soil gas control system is present below the radiant slab, which results in increased convective flow below the radiant slab, the radiant slab shall be thermally isolated from the sub-slab gravel layer.

**502.1.4.10 Below Grade Walls:** Below grade exterior wall insulation used on the exterior (cold) side of the wall shall extend from the top of the below grade wall to the top of the footing and shall be approved for below grade use. Above grade insulation shall be protected.

Insulation used on the interior (warm) side of the wall shall extend from the top of the below grade wall to the below grade floor level.

**502.1.5 Glazing and Door U-factors:** Glazing and door U-factors shall be determined in accordance with sections 502.1.5.1 and 502.1.5.2. All products shall be labeled with the NFRC certified or default U-factor. The labeled U-factor shall be used in all calculations to determine compliance with this Code. Sealed insulating glass shall conform to, or be in test for, ASTM E-774-81 class A.

**EXCEPTIONS:**

1. For glazed wall systems, assemblies with all of the following features are deemed to satisfy the vertical glazing U-factor requirement in Table 6-1 through 6-6 options with vertical glazing U-0.40 and greater:
  - a. Double glazing with a minimum 1/2 inch gap width, having a low-emissivity coating with  $e=0.10$  maximum, with 90% minimum argon gas fill, and a non-aluminum spacer (as defined in footnote 1 to Table 10-6B), and
  - b. Frame that is thermal break aluminum (as defined in footnote 9 to Table 10-6B), wood, aluminum clad wood, vinyl, aluminum clad vinyl, or reinforced vinyl.

The only labeling requirement for products using this exception shall be a description of the product and a label stating: "This product is deemed to satisfy the Table 6-1 through 6-6 vertical glazing U-factor requirement using the exception to Section 502.1.5 in the Washington State Energy Code."

2. For overhead glazing, assemblies with all of the following features are deemed to satisfy the overhead glazing U-factor requirement in all Table 6-1 through 6-6 options **except** the unlimited glazing area options (Option VIII in Table 6-2, Option IX in Table 6-4, and Option VIII for Climate Zone 1 and Option IX for Climate Zone 2 in Table 6-6):

- a. Either, double glazing with a minimum 1/2 inch gap width, having a low-emissivity coating with  $e=0.20$  maximum, with 90% minimum argon gas fill, or, triple glazed plastic domes, and
- b. Frame that is thermal break aluminum (as defined in footnote 9 to Table 10-6B), wood, aluminum clad wood, vinyl, aluminum clad vinyl, or reinforced vinyl.

The only labeling requirement for products using this exception shall be a description of the product and a label stating: "This product is deemed to satisfy the Table 6-1 through 6-6 overhead glazing U-factor requirement using the exception to Section 502.1.5 in the Washington State Energy Code."

3. For solariums with a floor area which does not exceed 300 square feet, assemblies which comply with the features listed in exception 2 are deemed to satisfy the vertical glazing and overhead glazing U-factor requirement in Table 6-1 through 6-6 options with vertical glazing U-0.40 and greater.

The only labeling requirement for products using this exception shall be a description of the product and a label stating: "This product is deemed to satisfy the Table 6-1 through 6-6 vertical glazing and overhead glazing U-factor requirements using the exception to Section 502.1.5 in the Washington State Energy Code."

**502.1.5.1 Standard Procedure for Determination of Glazing U-factors:** U-factors for glazing shall be determined, certified and labeled in accordance with the National Fenestration Rating Council (NFRC) Product Certification Program (PCP), as authorized by an independent certification and inspection agency licensed by the NFRC. Compliance shall be based on the Residential Model Size. Product samples used for U-factor determinations shall be production line units or representative of units as purchased by the consumer or contractor. Products that are listed in the NFRC Certified Products Directory or certified to the NFRC standard shall not use default values.

**EXCEPTIONS:**

1. Glazing products without NFRC ratings may be assigned default U-factors from Table 10-6A for vertical glazing and from Table 10-6E for overhead glazing.
2. Units without NFRC ratings produced by a small business may be assigned default U-factors from Table 10-6A for garden windows, from Table 10-6B for other vertical glazing, and from Table 10-6E for overhead glazing.

**502.1.5.2 Standard Procedure for Determination of Door U-factors:** (~~Half lite and full lite doors, including fire doors, shall be assigned default U-factors from Table 10-6D.~~) All (~~other~~) doors, including fire doors, shall be assigned default U-factors from Table 10-6C.

**EXCEPTIONS:**

1. U-factors determined, certified and labeled in accordance with the National Fenestration Rating Council (NFRC) Product Certification Program (PCP), as authorized by an independent certification and inspection agency licensed by the NFRC.
2. The default values for the opaque portions of doors shall be those listed in Table 10-6C, provided that the U-factor listed for a door with a thermal break

shall only be allowed if both the door and the frame have a thermal break.

3. One unlabeled or untested exterior swinging door with the maximum area of 24 square feet may be installed for ornamental, security or architectural purposes. Products using this exception shall not be included in either the U-factor or glazing area calculation requirements.

#### 502.1.6 Moisture Control:

502.1.6.1 Vapor Retarders: Vapor retarders shall be installed on the warm side (in winter) of insulation as specified in the following cases.

EXCEPTION: Vapor retarder installed with not more than 1/3 of the nominal R-value between it and the conditioned space.

502.1.6.2 Floors: Floors separating conditioned space from unconditioned space shall have a vapor retarder installed. The vapor retarder shall have a one perm dry cup rating or less (i.e., four mil [0.004 inch thick] polyethylene or kraft faced material).

502.1.6.3 Roof/Ceilings: Roof/ceiling assemblies where the ventilation space above the insulation is less than an average of 12 inches shall be provided with a vapor retarder. Faced batt insulation where used as a vapor retarder shall be face stapled. Single rafter joist vaulted ceiling cavities shall be of sufficient depth to allow a minimum one inch vented air space above the insulation.

502.1.6.4: Vapor retarders shall not be required in roof/ceiling assemblies where the ventilation space above the insulation averages 12 inches or greater.

502.1.6.5: Vapor retarders shall not be required where all of the insulation is installed between the roof membrane and the structural roof deck.

502.1.6.6 Walls: Walls separating conditioned space from unconditioned space shall have a vapor retarder installed. Faced batt insulation shall be face stapled.

502.1.6.7 Ground Cover: A ground cover of six mil (0.006 inch thick) black polyethylene or approved equal shall be laid over the ground within crawl spaces. The ground cover shall be overlapped 12 inches minimum at the joints and shall extend to the foundation wall.

EXCEPTION: The ground cover may be omitted in crawl spaces if the crawl space has a concrete slab floor with a minimum thickness of 3-1/2 inches.

#### 502.2 Thermal Criteria for Group R Occupancy:

502.2.1 UA Calculations: The proposed UA as calculated using Equations 2 and 3 shall not exceed the target UA as calculated using Equation 1. For the purpose of determining equivalent thermal performance, the glazing area for the target UA shall be calculated using values in Table 5-1. The opaque door area shall be the same in the target UA and the proposed UA.

EXCEPTION: Log and solid timber walls that have a minimum average thickness of 3.5" and with space heat type other than electric resistance, are exempt from wall target UA and proposed UA calculations.

502.2.2 Space Heat Type: The following two categories comprise all space heating types:

1. Electric Resistance: Space heating systems which include baseboard units, radiant units and forced air units as either the primary or secondary heating system.

EXCEPTION: Electric resistance systems for which the total electric heat capacity in each individual dwelling unit does not exceed the greater of: 1) One thousand watts (1000 w) per dwelling unit, or; 2) One watt per square foot (1 w/ft<sup>2</sup>) of the gross floor area.

2. Other: All gas, wood, oil and propane space heating systems, unless electric resistance is used as a secondary heating system, and all heat pump space heating systems. (See EXCEPTIONS, Electric Resistance, section 502.2.2 above.)

502.3 Reserved.

502.4 Air Leakage:

502.4.1 General: The requirements of this section shall apply to all buildings and structures, or portions thereof, and only to those locations separating outdoor ambient conditions from interior spaces that are heated or mechanically cooled.

502.4.2 Doors and Windows, General: Exterior doors and windows shall be designed to limit air leakage into or from the building envelope. Site-constructed doors and windows shall be sealed in accordance with Section 502.4.3.

502.4.3 Seals and Weatherstripping:

- a. Exterior joints around windows and door frames, openings between walls and foundation, between walls and roof and wall panels; openings at penetrations of utility services through walls, floors and roofs; and all other openings in the building envelope for all occupancies and all other openings in between units in R-1 occupancy shall be sealed, caulked, gasketed or weatherstripped to limit air leakage. Other exterior joints and seams shall be similarly treated, or taped, or covered with moisture vapor permeable housewrap.

- b. All exterior doors or doors serving as access to an enclosed unheated area shall be weatherstripped to limit leakage around their perimeter when in a closed position.

- c. Site built windows are exempt from testing but shall be made tight fitting. Fixed lights shall have glass retained by stops with sealant or caulking all around. Operating sash shall have weatherstripping working against overlapping trim and a closer/latch which will hold the sash closed. The window frame to framing crack shall be made tight with caulking, overlapping membrane or other approved technique.

- d. Openings that are required to be fire resistive are exempt from this section.

502.4.4 Recessed Lighting Fixtures: When installed in the building envelope, recessed lighting fixtures shall meet one of the following requirements:

1. Type IC rated, manufactured with no penetrations between the inside of the recessed fixture and ceiling cavity

and sealed or gasketed to prevent air leakage into the unconditioned space.

2. Type IC rated, installed inside a sealed box constructed from a minimum 1/2 inch thick gypsum wall board, or constructed from a preformed polymeric vapor barrier, or other air tight assembly manufactured for this purpose.

3. Type IC rated, certified under ASTM E283 to have no more than 2.0 cfm air movement from the conditioned space to the ceiling cavity. The lighting fixture shall be tested at 75 Pascals or 1.57 lbs/ft<sup>2</sup> pressure difference and have a label attached, showing compliance.

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

**AMENDATORY SECTION** (Amending WSR 98-24-075, filed 12/1/98, effective 7/1/99)

**WAC 51-11-0503 Building mechanical systems.**

503.1 General: This section covers the determination of design requirements, system and component performance, control requirements, insulating systems and duct construction.

**(EXCEPTIONS:** ~~Special applications, including but not limited to hospitals, laboratories, thermally sensitive equipment, and computer rooms may be exempted from the requirements of this section when approved by the building official.))~~

503.2 Calculations of Heating and Cooling Loads, and System Sizing Limits: The design parameters specified in Chapter 3 shall apply for all computations.

503.2.1 Calculation Procedures: Heating and cooling design loads for the purpose of sizing HVAC systems are required and shall be calculated in accordance with accepted engineering practice, including infiltration and ventilation.

503.2.2 Space Heating and Space Cooling System Sizing Limits: Building mechanical systems for all buildings which provide space heating and/or space cooling shall be sized no greater than two hundred percent (200%) of the heating and cooling design loads as calculated above.

**EXCEPTIONS:** The following limited exemptions from the sizing limit shall be allowed((:)); however, in all cases heating and/or cooling design load calculations shall be submitted.

1. For equipment which provides both heating and cooling in one package unit, including heat pumps with electric heating and cooling and gas-pack units with gas heating and electric cooling, compliance need only be demonstrated for either the space heating or space cooling system size.

2. Natural gas- or oil-fired space heating equipment whose total rated space heating output in any one dwelling unit is ~~((fifty-six thousand Btu/h or less))~~

a. 40,000 Btu/h or less is exempt from the sizing limit.

b. larger than 40,000 Btu/h may exceed the two hundred (200%) percent sizing limit provided that the installed equipment has an annual fuel utilization effi-

ciency (AFUE) of not less than ~~((the sum of seventy-eight percent plus one percent for every five thousand Btu/h that the space heating equipment output exceeds the design heating load of the dwelling unit))~~ ninety (90%) percent.

3. Stand-by equipment may be installed if controls and other devices are provided which allow redundant equipment to operate only when the primary equipment is not operating.

503.3 Simultaneous Heating and Cooling: Systems and equipment that provide simultaneous heating and cooling shall comply with the requirements in, as appropriate, Section 1422 or Section 1435.

503.4 HVAC Equipment Performance Requirements:

503.4.1 Equipment Components:

503.4.1.1: The requirements of this section apply to equipment and mechanical component performance for heating, ventilating and air-conditioning systems. Equipment efficiency levels are specified. Data furnished by the equipment supplier or certified under a nationally recognized certification program or rating procedure shall be used to satisfy these requirements. Equipment efficiencies shall be based on the standard rating conditions in Tables 5-4, 5-5 or 5-6 as appropriate.

503.4.1.2: Where components from more than one manufacturer are assembled into systems regulated under this section, compliance for each component shall be as specified in sections 503.4.2 through 503.4.6 of this Code.

503.4.2: HVAC System Heating Equipment Heat Pump-heating Mode. Heat pumps whose energy input is entirely electric shall have a coefficient of performance (COP) heating, not less than the values in Table 5-7. Heat Pumps with supplementary backup heat other than electricity shall meet the requirements of Table 5-7.

503.4.2.1: These requirements apply to, but are not limited to, unitary (central) heat pumps (air source and water source) in the heating mode, water source (hydronic) heat pumps as used in multiple-unit hydronic HVAC systems, and heat pumps in the packaged terminal air-conditioner in the heating mode.

503.4.2.3 Supplementary Heater: The heat pump shall be installed with a control to prevent supplementary backup heater operation when the operating load can be met by the heat pump compression cycle alone.

503.4.2.4 Heat Pump Controls: Requirements for heat pump controls are listed in section 503.8.3.5 of this Code.

503.4.3 HVAC System Combustion Equipment: For Group R Occupancy, all gas, oil, and propane central heating systems shall have a minimum AFUE of 0.78\*. All other Group R Occupancy heating equipment fueled by gas, oil, or propane shall be equipped with an intermittent ignition device, or shall comply with the efficiencies as required in the 1987 National Appliances Energy Conservation Act (Public Law 100-12).



\*HVAC Heating system efficiency trade-offs shall be made using Chapters 4 or 6 of this Code.

503.4.4 Packaged and Unitary HVAC System Equipment, Electrically Operated, Cooling Mode: HVAC system equipment as listed below, whose energy input in the cooling mode is entirely electric, shall have an energy efficiency ratio (EER) or a seasonal energy efficiency ratio (SEER) cooling not less than values in Table 5-8.

503.4.4.1: These requirements apply to, but are not limited to, unitary (central) and packaged terminal heat pumps (air source and water source); packaged terminal air conditioners.

503.4.5 **Other HVAC Equipment:** HVAC equipment, other than that addressed in Sections 503.4.2 through 503.4.4, shall have a minimum performance at the specified rating conditions not less than the values shown in Tables 14-1 through 14-3.

503.5 Reserved.

503.6 Balancing: The HVAC system design shall provide a means for balancing air and water systems. Balancing the system shall include, but not be limited to, dampers, temperature and pressure test connections and balancing valves.

503.7 Cooling with Outdoor Air (Economizer Cycle): ~~(Each fan system shall be designed to use up to and including 100% of the fan system capacity for cooling with outdoor air automatically whenever its use will result in lower usage of new energy. Activation of economizer cycle shall be controlled by sensing outdoor air enthalpy or outdoor air dry-bulb temperature alone or alternate means approved by the building official.~~

**EXCEPTIONS:** Cooling with outdoor air is not required under any one or more of the following conditions:

1. ~~The fan system capacity is less than 3,500 cfm or total cooling capacity is less than 90,000 Btu/h.~~
2. ~~The quality of the outdoor air is so poor as to require extensive treatment of the air and approval by the building official.~~
3. ~~The need for humidification or dehumidification requires the use of more energy than is conserved by the outdoor air cooling on an annual basis.~~
4. ~~The use of outdoor air cooling may affect the operation of other systems so as to increase the overall energy consumption of the building.~~
5. ~~When energy recovered from an internal/external zone heat recovery system exceeds the energy conserved by outdoor air cooling on an annual basis.~~
6. ~~When all space cooling is accomplished by a circulating liquid which transfers space heat directly or indirectly to a heat rejection device such as a cooling tower without use of a refrigeration system.~~
7. ~~When the use of 100% outside air will cause coil frosting, controls may be added to reduce the quantity of outside air. However, the intent of this exception is to use 100% air in lieu of mechanical cooling when less energy usage will result and this exception applies only to direct expansion systems when the compressor is running.)~~

Systems and equipment that provide mechanical cooling shall comply with Section 1413 and, as appropriate, Section 1423 or 1433.

503.8 Controls:

503.8.1 Temperature Control: Each system shall be provided with at least one adjustable thermostat for the regulation of temperature. Each thermostat shall be capable of being set by adjustment or selection of sensors as follows:

503.8.1.1: When used to control heating only: Fifty-five degrees to seventy-five degrees F.

503.8.1.2: When used to control cooling only: Seventy degrees to eighty-five degrees F.

503.8.1.3: When used to control both heating and cooling, it shall be capable of being set from fifty-five degrees to eighty-five degrees F and shall be capable of operating the system heating and cooling in sequence. The thermostat and/or control system shall have an adjustable deadband of not less than ten degrees F.

503.8.2 Humidity Control: If a system is equipped with a means for adding moisture to maintain specific selected relative humidities in space or zones, a humidistat shall be provided. Humidistats shall be capable of being set to prevent new energy from being used to produce space-relative humidity above thirty percent.

**EXCEPTION:** Special uses requiring different relative humidities may be permitted when approved by the building official.

503.8.3 Zoning for Temperature Control:

503.8.3.1 One- and Two-Family Dwellings: At least one thermostat for regulation of space temperature shall be provided for each separate system. In addition, a readily accessible manual or automatic means shall be provided to partially restrict or shut off the heating and/or cooling input to each zone or floor.

503.8.3.2 Multifamily Dwellings: For multifamily dwellings, each individual dwelling unit shall have at least one thermostat for regulation of space temperature. A readily accessible manual or automatic means shall be provided to partially restrict or shut off the heating and/or cooling input to each room. Spaces other than living units shall meet the requirements of 503.8.3.3.

503.8.3.3 Reserved.

503.8.3.4 Control Setback and Shut-off:

Residential Occupancy Groups. One- and Two-Family and Multifamily dwellings—The thermostat required in section 503.8.3.1 or section 503.8.3.2, or an alternate means such as a switch or clock, shall provide a readily accessible, manual or automatic means for reducing the energy required for heating and cooling during the periods of non-use or reduced need, such as, but not limited to unoccupied periods and sleeping hours. Lowering thermostat set points to reduce energy consumption of heating systems shall not cause energy to be expended to reach the reduced setting.

503.8.3.5 Heat Pump Controls: Programmable thermostats are required for all heat pump systems. The cut-on temperature for the compression heating shall be higher than the cut-on temperature for the supplementary heat, and the cut-

off temperature for the compression heating shall be higher than the cut-off temperature for the supplementary heat. Heat pump thermostats will be capable of providing at least two programmable setback periods per day. The automatic setback thermostat shall have the capability of limiting the use of supplemental heat during the warm-up period.

**503.9 Air Handling Duct System Insulation:** Ducts, plenums and enclosures installed in or on buildings shall be thermally insulated per Table 5-11.

**EXCEPTIONS:** Duct insulation (except where required to prevent condensation) is not required in any of the following cases:

1. When the heat gain or loss of the ducts, without insulation, will not increase the energy requirements of the building.
2. Within the HVAC equipment.
3. Exhaust air ducts.
4. Supply or return air ducts installed in unvented crawl spaces with insulated walls, basements, or cellars in one- and two-family dwellings.

**503.10 Duct Construction:** All duct work shall be constructed in accordance with Standards RS-15, RS-16, RS-17, RS-18, RS-19 or RS-20, as applicable, and the Uniform Mechanical Code.

**503.10.1 Leakage Testing:** High-pressure and medium-pressure ducts shall be leak tested in accordance with the applicable standards in Chapter 7 of this Code with the rate of air leakage not to exceed the maximum rate specified in that standard.

**503.10.2 Seams and Joints:** ~~((When low-pressure supply air ducts are located outside of the conditioned space, all HVAC ductwork seams and joints, both longitudinal and transverse, shall be taped and sealed with products approved by the building official only. Ductwork joints shall be mechanically fastened with a minimum of three fasteners per joint for a cylindrical duct. Use Table 5-11 for duct insulation requirements.))~~ All low-pressure supply and return, including enclosed stud bays or joist cavities/space used to transport air, shall be securely fastened and sealed with welds, gaskets, mastics (adhesives), mastic-plus-embedded-fabric systems or tapes installed in accordance with the manufacturer's installation instructions. Tapes and mastics used with rigid fibrous glass ducts shall be listed and labeled in accordance with UL 181A. Tapes and mastics used with flexible air ducts shall be listed and labeled in accordance with UL 181B. Duct tape is not permitted as a sealant on any ducts.

**EXCEPTION:** Ducts or building cavities used for air distribution that are located entirely within the conditioned space of the building are exempt from this section.

**503.10.3 Dampers:** Requirements for Automatic or manual dampers are found in the Washington State Ventilation and Indoor Air Quality Code.

**503.10.4 Duct Insulation:** Ducts shall meet the insulation requirements specified in Table 5-11.

**503.11 ((Piping)) Pipe Insulation:** All piping ~~((installed to serve buildings (and within)))~~ shall be thermally insulated in accordance with Table 5-12. ~~((For service hot water systems see section 504.7. If water pipes are outside of conditioned space then the pipe insulation requirement shall be R-~~

~~3 minimum for nonrecirculating hot and cold water pipes. For recirculating service hot and cold water pipes use Table 5-12 for pipe sizes and temperatures.))~~

**EXCEPTION:** Piping ~~((insulation is not required))~~ installed within unitary HVAC equipment.

Cold water pipes outside the conditioned space shall be insulated in accordance with the Washington State Plumbing Code (chapter 51-46 WAC).

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-0504 Service water heating.**

**504.1 Scope:** The purpose of this section is to provide criteria for design and equipment selection that will produce energy savings when applied to service water heating.

**504.2 Water Heaters, Storage Tanks and Boilers:**

**504.2.1 Performance Efficiency:** All Storage water heaters shall meet the requirements of the 1987 National Appliance Energy Conservation Act and be so labeled. All electric water heaters in unheated spaces or on concrete floors shall be placed on an incompressible, insulated surface with a minimum thermal resistance of R-10.

For combination space and service water heaters with a principal function of providing space heat, the Combined Annual Efficiency (CAE) may be calculated by using ASHRAE Standard 124-1991. Storage water heaters used in combination space heat and water heat applications shall have either an Energy Factor (EF) or a Combined Annual Efficiency (CAE) of not less than the following:

	Energy Factor (EF)	Combined Annual Efficiency (CAE)
<50 gallon storage	0.58	0.71
50 to 70 gallon storage	0.57	0.71
>70 gallon storage	0.55	0.70

**504.2.2 Insulation:** Heat loss from unfired hot-water storage tanks shall be limited to a maximum of 9.6 Btu/hr/ft<sup>2</sup> of external tank surface area. The design ambient temperature shall be no higher than sixty-five degrees F.

**504.2.3 Combination Service Water Heating/Space Heating Boilers:** Service water heating equipment shall not be dependent on year round operation of space heating boilers.

**EXCEPTIONS:** 1. Systems with service/space heating boilers having a standby loss Btu/h less than:

$$(13.3 \text{ pmd} + 400) / n$$

determined by the fixture count method where:

pmd = probably maximum demand in gallons/hour as determined in accordance with Chapter 37 of Standard RS-11.

n = fraction of year when outdoor daily mean temperature exceeds 64.9° F.

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The standby loss is to be determined for a test period of twenty-four-hour duration while maintaining a boiler water temperature of ninety degrees F above an ambient of sixty degrees F and a five foot stack on appliance.

2. For systems where the use of a single heating unit will lead to energy savings, such unit shall be utilized.

504.3 Automatic Controls: Service water heating systems shall be equipped with automatic temperature controls capable of adjustment from the lowest to the highest acceptable temperature settings for the intended use. Temperature setting range shall be set to one hundred twenty degrees F or forty-nine degrees C.

504.4 Shutdown: A separate switch shall be provided to permit turning off the energy supplied to electric service water heating systems. A separate valve shall be provided to permit turning off the energy supplied to the main burner(s) of all other types of service water heater systems.

504.5 Swimming Pools:

504.5.1: All pool heaters shall be equipped with readily accessible ON/OFF switch to allow shutting off the operation of the heater without adjusting the thermostat setting. Controls shall be provided to allow the water temperature to be regulated from the maximum design temperature down to sixty-five degrees F.

504.5.2 Pool Covers: Heated swimming pools shall be equipped with a pool cover, approved by the building official.

504.6 Pump Operation: Circulating hot water systems shall be controlled so that the circulation pump(s) can be conveniently turned off, automatically or manually, when the hot water system is not in operation.

504.7 Pipe Insulation: (~~For recirculating and non-recirculating systems;~~) Piping shall be thermally insulated in accordance with section 503.11 (~~and Table 5-12~~).

504.8 Conservation of Hot Water:

504.8.1 Showers and Lavatories: Showers and lavatories used for other than safety reasons shall be equipped with flow control devices or specially manufactured showerheads or aerators to limit the total water flow rate as set forth in chapter 51-26 WAC, as measured with both hot and cold faucets turned on to their maximum flow.

**AMENDATORY SECTION** (Amending WSR 93-21-052, filed 10/18/93, effective 4/1/94)

**WAC 51-11-0505 (~~Reserved~~) Lighting.**

**505.1 Lighting Controls:** Hotel and motel guest rooms and guest suites shall have a master control device at the main room entry that controls all permanently installed luminaires and switched receptacles.

**505.2 Lighting Power:** Lighting shall comply with the Prescriptive Lighting Option in Section 1520 or the Lighting Power Allowance Option in Section 1530.

- EXCEPTIONS: 1. Group R-3 occupancy and the dwelling unit portions of Group R-1 occupancy.  
2. Lighting exempted by Section 1512.

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-0530 Table 5-1.**

**TABLE 5-1  
TARGET COMPONENT VALUES FOR GROUP R OCCUPANCY**

Component	Electric Resistance		Other Fuels	
	Climate Zone		Climate Zone	
	1	2	1	2
Glazing % Floor Area	15%	15%	15%	15%
Vertical Glazing U-Factor	U = 0.400	U = 0.400	U = 0.650	U = 0.600
Overhead Glazing U-Factor	U = 0.58	U = 0.58	U = 0.68	U = 0.64
Doors	U = 0.200 (R-5)	U = 0.200 (R-5)	U = 0.400 (R-2.5)	U = 0.400 (R-2.5)
Ceilings				
Attic	U = 0.031 (R-38)	U = 0.031 (R-38)	U = 0.036 (R-30)	U = 0.031 (R-38)
Single Rafter/ Joist Vaulted	U = 0.034 (R-30)	U = 0.034 (R-30)	U = 0.034 (R-30)	U = 0.034 (R-30)
Walls	U = 0.058 (R-19A)	U = 0.044 (R-19+5A)	U = 0.062' (R-19)	U = 0.062' (R-19(+5))
Floors	U = 0.029 (R-30)	U = 0.029 (R-30)	U = 0.041 (R-19)	U = 0.029 (R-30)

Slab on Grade Slab R-Value	F = 0.54 (R-10)	F = 0.54 (R-10)	F = 0.54 (R-10)	F = 0.54 (R-10)
Below Grade Interior				
Wall R-Value	R-19	R-19	R-19	R-19
2' Depth: Walls Slab	U = 0.043 F = 0.69	U = 0.043 F = 0.69	U = 0.043 F = 0.69	U = 0.043 F = 0.69
3.5' Depth: Walls Slab	U = 0.041 F = 0.64	U = 0.041 F = 0.64	U = 0.041 F = 0.64	U = 0.041 F = 0.64
7' Depth: Walls Slab	U = 0.037 F = 0.57	U = 0.037 F = 0.57	U = 0.037 F = 0.57	U = 0.037 F = 0.57
Below Grade Exterior				
Wall R-Value	R-10	R-12	R-10	R-12
2' Depth: Walls Slab	U = 0.070 F = 0.60	U = 0.061 F = 0.60	U = 0.070 F = 0.60	U = 0.061 F = 0.60
3.5' Depth: Walls Slab	U = 0.064 F = 0.57	U = 0.057 F = 0.57	U = 0.064 F = 0.57	U = 0.057 F = 0.57
7' Depth: Walls Slab	U = 0.056 F = 0.42	U = 0.050 F = 0.42	U = 0.056 F = 0.42	U = 0.050 F = 0.42

1. Log and Solid Timber walls that have a minimum average thickness of 3.5" are exempt from wall target UA and proposed UA calculations.

**AMENDATORY SECTION** (Amending WSR 94-05-059, filed 2/10/94, effective 4/1/94)

**WAC 51-11-0601 Scope.**

601.1 General: This chapter establishes design criteria in terms of prescribed requirements for building construction.

The provisions of this chapter are applicable to all Group R Occupancies. Occupancies shall comply with all the requirements of Chapter 5 except for the modifications herein specified.

For wood frame assemblies, the building envelope requirements of this chapter may be met by installing one of the prescriptive packages in Tables 6-1 to 6-6. Installed components shall meet the requirements of section 602 ((and 605)). Compliance with nominal R-Values shall be demonstrated for the thermal resistance of the added insulation in framing cavities and/or insulated sheathing only and shall not include the thermal transmittance of other building materials or air films, but shall permit interruption by occasional framing members. Other than wood frame assemblies with con-

tinuous insulation uninterrupted by framing shall also be allowed to comply with nominal R-values.

For metal frame assemblies, compliance shall be demonstrated in accordance with Chapter 4 or Chapter 5 based on the assemblies in Chapter 10. Compliance with nominal R-values is not allowed, unless the full nominal R-value of the insulation is installed either inside or outside of the framing and is uninterrupted by framing.

**AMENDATORY SECTION** (Amending WSR 91-01-112, filed 12/19/90, effective 7/1/91)

**WAC 51-11-0604 ((~~Electric power and lighting for Group R Occupancy~~)) Reserved.**

((604.1: All electrical power and lighting systems shall comply with the requirements of section 505.))

**AMENDATORY SECTION** (Amending WSR 93-21-052, filed 10/18/93, effective 4/1/94)

**WAC 51-11-0605 ((~~Reserved~~)) Lighting. Lighting shall comply with Section 505.**

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-0625 Table 6-1.**

**TABLE 6-1  
PRESCRIPTIVE REQUIREMENTS<sup>1</sup> \*\*FOR GROUP R OCCUPANCY  
CLIMATE ZONE 1 • HEATING BY ELECTRIC RESISTANCE**

Option	Glazing Area <sup>10</sup> : % of Floor	Glazing U-Factor		Door <sup>9</sup> U-Factor	Ceiling <sup>2</sup>	Vaulted Ceiling <sup>3</sup>	Wall Above Grade	Wall•int <sup>4</sup> Below Grade	Wall•ext <sup>4</sup> Below Grade	Floor <sup>5</sup>	Slab <sup>4</sup> on Grade
		Vertical	Overhead <sup>11</sup>								
I.	10%	0.46	0.58	0.40	R-38	R-30	R-21	R-21	R-10	R-30	R-10
II.	12%	0.43	0.58	0.20	R-38	R-30	R-19	R-19	R-10	R-30	R-10

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III.	12%	0.40	0.58	0.40	R-38	R-30	R-21	R-21	R-10	R-30	R-10
IV.*	.15%	0.40	0.58	0.20	R-38	R-30	R-19	R-19	R-10	R-30	R-10
V.	18%	0.39	0.58	0.20	R-38	R-30	R-21	R-21	R-10	R-30	R-10
VI.	21%	0.36	0.58	0.20	R-38	R-30	R-21	R-21	R-10	R-30	R-10
VII. <sup>7</sup>	25%	0.32 <sup>7</sup>	0.58	0.20	R-38	R-30	R-19 +R-5 <sup>8</sup>	R-21	R-10	R-30	R-10
VIII. <sup>7</sup>	30%	0.29 <sup>7</sup>	0.58	0.20	R-38	R-30	R-19 +R-5 <sup>8</sup>	R-21	R-10	R-30	R-10

\* Reference Case

\*\* Nominal R-values are for wood frame assemblies only or assemblies built in accordance with Section 601.1.

- Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 19%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above may calculate compliance by Chapters 4 or 5 of this Code.
- Requirement applies to all ceilings except single rafter or joist vaulted ceilings. 'Adv' denotes Advanced Framed Ceiling.
- Requirement applicable only to single rafter or joist vaulted ceilings.
- Below grade walls shall be insulated either on the exterior to a minimum level of R-10, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See Section 602.2.
- Floors over crawl spaces or exposed to ambient air conditions.
- Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See Section 602.4.
- The following options shall be applicable to buildings less than three stories: 0.35 maximum for glazing areas of 25% or less; 0.32 maximum for glazing areas of 30% or less.
- This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.
- Doors, including all fire doors, shall be assigned default U-factors from Table 10-6C ((~~or 10-6D~~)).
- Where a maximum glazing area is listed, the total glazing area (combined vertical plus overhead) as a percent of gross conditioned floor area shall be less than or equal to that value. Overhead glazing with U-factor of U=0.040 or less is not included in glazing area limitations.
- Overhead glazing shall have U-factors determined in accordance with NFRC 100 or as specified in Section 502.1.5.

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-0626 Table 6-2.**

**TABLE 6-2  
PRESCRIPTIVE REQUIREMENTS<sup>1</sup> \*\*FOR GROUP R OCCUPANCY  
CLIMATE ZONE 1 • HEATING BY OTHER FUELS**

Option	HVAC <sup>9</sup> Equip. Effic.	Glazing Area <sup>11</sup> : % of Floor	Glazing U-Factor		Door <sup>10</sup> U-Factor	Ceiling <sup>2</sup>	Vaulted Ceiling <sup>3</sup>	Wall Above Grade	Wall• int <sup>4</sup> Below Grade	Wall• ext <sup>4</sup> Below Grade	Floor <sup>5</sup>	Slab <sup>6</sup> on Grade
			Vertical	Overhead <sup>12</sup>								
I.	Med.	10%	0.70	0.68	0.40	R-30	R-30	R-15	R-15	R-10	R-19	R-10
II.	Med.	12%	0.65	0.68	0.40	R-30	R-30	R-15	R-15	R-10	R-19	R-10
III.	High	21%	0.75	0.68	0.40	R-30	R-30	R-19	R-19	R-10	R-19	R-10
IV.*	Med.	21%	0.65	0.68	0.40	R-30	R-30	R-19	R-19	R-10	R-19	R-10
V.	Low	21%	0.60	0.68	0.40	R-30	R-30	R-19	R-19	R-10	R-19	R-10
VI. <sup>7</sup>	Med.	25%	0.45 <sup>7</sup>	0.68	0.40	R-38	R-30	R-19	R-19	R-10	R-25	R-10
VII. <sup>7</sup>	Med.	30%	0.40 <sup>7</sup>	0.68	0.40	R-30	R-30	R-19	R-19	R-10	R-25	R-10
VIII.	Med.	unlimited	0.25	0.40	0.40	R-30	R-30	R-19	R-19	R-10	R-25	R-10

\* Reference Case

\*\* Nominal R-values are for wood frame assemblies only or assemblies built in accordance with Section 601.1.

- Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 19%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above may calculate compliance by Chapters 4 or 5 of this Code.
- Requirement applies to all ceilings except single rafter or joist vaulted ceilings. 'Adv' denotes Advanced Framed Ceiling.
- Requirement applicable only to single rafter or joist vaulted ceilings.
- Below grade walls shall be insulated either on the exterior to a minimum level of R-10, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See Section 602.2.
- Floors over crawl spaces or exposed to ambient air conditions.
- Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See Section 602.4.
- The following options shall be applicable to buildings less than three stories: 0.50 maximum for glazing areas of 25% or less; 0.45 maximum for glazing areas of 30% or less.
- ~~(This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.) Reserved.~~
- Minimum HVAC Equipment efficiency requirement. 'Low' denotes an AFUE of 0.74. 'Med.' denotes an AFUE of 0.78. 'High' denotes an AFUE of 0.88. Minimum HVAC Equipment efficiency requirement for heat pumps. 'Low' denotes an HSPF of 6.35. 'Med' denotes an HSPF of 6.8. 'High' an HSPF of 7.7. Water and ground source heat pumps shall be considered as medium efficiency and have a minimum COP as required in Table 5-7.

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- 10. Doors, including all fire doors, shall be assigned default U-factors from Table 10-6C ((~~or 10-6D~~)).
- 11. Where a maximum glazing area is listed, the total glazing area (combined vertical plus overhead) as a percent of gross conditioned floor area shall be less than or equal to that value. Overhead glazing with U-factor of U= 0.040 or less is not included in glazing area limitations.
- 12. Overhead glazing shall have U-factors determined in accordance with NFRC 100 or as specified in Section 502.1.5.

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-0627 Table 6-3.**

**TABLE 6-3  
PRESCRIPTIVE REQUIREMENTS<sup>1</sup> \*\*FOR GROUP R OCCUPANCY  
CLIMATE ZONE 2 • HEATING BY ELECTRIC RESISTANCE**

Option	Glazing Area <sup>11</sup> : % of Floor	Glazing U-Factor		Door <sup>10</sup> U-Factor	Ceiling <sup>2</sup>	Vaulted Ceiling <sup>3</sup>	Wall Above Grade	Wall• int <sup>4</sup> Below Grade	Wall• ext <sup>4</sup> Below Grade	Floor <sup>5</sup>	Slab <sup>6</sup> on Grade
		Vertical	Over-head <sup>12</sup>								
I.	10%	0.38	0.58	0.20	R-38	R-30	R-21	R-21	R-12	R-30	R-10
II.	12%	0.40	0.58	0.20	R-38	R-30	R-19+R-5 <sup>8</sup>	R-21	R-12	R-25	R-10
III.*	15%	0.40	0.58	0.20	R-38	R-30	R-19+R-5 <sup>8</sup>	R-21	R-12	R-30	R-10
IV.	18%	0.38	0.58	0.20	R-38	R-30	R-19+R-5 <sup>8</sup>	R-21	R-12	R-30	R-10
V.	21%	0.35	0.58	0.20	R-38Adv	R-38	R-19+R-5 <sup>8</sup>	R-21	R-12	R-30	R-10
VI. <sup>7</sup>	25%	0.30 <sup>7</sup>	0.58	0.20	R-49Adv	R-38	R-19+R-5 <sup>8</sup>	R-21	R-12	R-30	R-10
VII. <sup>7</sup>	30%	0.28 <sup>7</sup>	0.58	0.20	R-60Adv	R-38	R-21+R-7.5 <sup>9</sup>	R-21	R-12	R-30	R-10

- \* Reference Case
- \*\* Nominal R-values are for wood frame assemblies only or assemblies built in accordance with Section 601.1.
- 1 Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 19%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above may calculate compliance by Chapters 4 or 5 of this Code.
- 2 Requirement applies to all ceilings except single rafter or joist vaulted ceilings. 'Adv' denotes Advanced Framed Ceiling.
- 3 Requirement applicable only to single rafter or joist vaulted ceilings.
- 4 Below grade walls shall be insulated either on the exterior to a minimum level of R-12, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See Section 602.2.
- 5 Floors over crawl spaces or exposed to ambient air conditions.
- 6 Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See Section 602.4.
- 7 The following options shall be applicable to buildings less than three stories: 0.33 maximum for glazing areas of 25% or less; 0.31 maximum for glazing areas of 30% or less.
- 8 This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.
- 9 This wall insulation requirement denotes R-21 wall cavity insulation plus R-7.5 foam sheathing.
- 10 Doors, including all fire doors, shall be assigned default U-factors from Table 10-6C ((~~or 10-6D~~)).
- 11. Where a maximum glazing area is listed, the total glazing area (combined vertical plus overhead) as a percent of gross conditioned floor area shall be less than or equal to that value. Overhead glazing with U-factor of U=0.040 or less is not included in glazing area limitations.
- 12. Overhead glazing shall have U-factors determined in accordance with NFRC 100 or as specified in Section 502.1.5.

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-0628 Table 6-4.**

**TABLE 6-4  
PRESCRIPTIVE REQUIREMENTS<sup>1</sup> \*\*FOR GROUP R OCCUPANCY  
CLIMATE ZONE 2 • HEATING BY OTHER FUELS**

Option	HVAC <sup>9</sup> Equip. Effic.	Glazing Area <sup>11</sup> : % of Floor	Glazing U-Factor		Door <sup>10</sup> U-Factor	Ceiling <sup>2</sup>	Vaulted Ceiling <sup>3</sup>	Wall Above Grade	Wall• int <sup>4</sup> Below Grade	Wall• ext <sup>4</sup> Below Grade	Floor <sup>5</sup>	Slab <sup>6</sup> on Grade
			Vertical	Overhead <sup>12</sup>								
I.	Med.	10%	0.70	0.64	0.40	R-38	R-30	R-19	R-19	R-12	R-25	R-10
II.	Med.	12%	0.65	0.64	0.40	R-38	R-30	R-19	R-19	R-12	R-25	R-10
III.	High	17%	0.65	0.64	0.40	R-38	R-30	R-19	R-19	R-12	R-25	R-10
IV.*	Med.	17%	0.60	0.64	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10
V.	Low	17%	0.50	0.64	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10
VI.	Med.	21%	0.50	0.64	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10
VII. <sup>7</sup>	Med.	25%	0.40 <sup>7</sup>	0.64	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10
VIII. <sup>7</sup>	Med.	30%	0.40 <sup>7</sup>	0.64	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10
IX.	Med.	unlimited	0.25	0.40	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10

PERMANENT

- \* Reference Case
- \*\* Nominal R-values are for wood frame assemblies only or assemblies built in accordance with Section 601.1.
- 1 Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 19%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above may calculate compliance by Chapters 4 or 5 of this Code.
- 2 Requirement applies to all ceilings except single rafter or joist vaulted ceilings. 'Adv' denotes Advanced Framed Ceiling.
- 3 Requirement applicable only to single rafter or joist vaulted ceilings.
- 4 Below grade walls shall be insulated either on the exterior to a minimum level of R-12, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See Section 602.2.
- 5 Floors over crawl spaces or exposed to ambient air conditions.
- 6 Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See Section 602.4.
- 7 The following options shall be applicable to buildings less than three stories: 0.45 maximum for glazing areas of 25% or less; 0.40 maximum for glazing areas of 30% or less.
- 8 ~~((This wall insulation requirement denotes R-19 wall cavity insulation plus R-5 foam sheathing.))~~ Reserved.
- 9 Minimum HVAC Equipment efficiency requirement. 'Low' denotes an AFUE of 0.74. 'Med.' denotes an AFUE of 0.78. 'High' denotes an AFUE of 0.88. Minimum HVAC Equipment efficiency requirement for heat pumps. 'Low' denotes an HSPF of 6.35. 'Med' denotes an HSPF of 6.8. 'High' an HSPF of 7.7. Water and ground source heat pumps shall be considered as medium efficiency and have a minimum COP as required in Table 5-7.
- 10 Doors, including all fire doors, shall be assigned default U-factors from Table 10-6C (~~(or 10-6D)~~).
- 11 Where a maximum glazing area is listed, the total glazing area (combined vertical plus overhead) as a percent of gross conditioned floor area shall be less than or equal to that value. Overhead glazing with U-factor of U=0.040 or less is not included in glazing area limitations.
- 12 Overhead glazing shall have U-factors determined in accordance with NFRC 100 or as specified in Section 502.1.5.

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-0630 Table 6-6.**

**TABLE 6-6**  
**LOG HOMES PRESCRIPTIVE REQUIREMENTS<sup>1\*\*</sup>**  
**HEATING BY OTHER FUELS**

Option	HVAC <sup>9</sup> Equip. Effic.	Glazing Area <sup>12</sup> : % of Floor	Glazing U-Factor		Door <sup>10</sup> U-Factor	Ceiling <sup>2</sup>	Vaulted Ceiling <sup>3</sup>	Wall <sup>11</sup> Above Grade	Wall• int <sup>4</sup> Below Grade	Wall• ext <sup>4</sup> Below Grade	Floor <sup>5</sup>	Slab <sup>6</sup> on Grade
			Vert- ical	Over- head <sup>13</sup>								
<b>Climate Zone 1</b>												
<b>I.</b>	Med.	10%	0.70	0.68	0.40	R-30	R-30	R-15	R-15	R-10	R-19	R-10
<b>II.</b>	Med.	12%	0.65	0.68	0.40	R-30	R-30	R-15	R-15	R-10	R-19	R-10
<b>III.</b>	High	21%	0.75	0.68	0.40	R-30	R-30	R-19	R-19	R-10	R-19	R-10
<b>IV.*</b>	Med.	21%	0.65	0.68	0.40	R-30	R-30	R-19	R-19	R-10	R-19	R-10
<b>V.</b>	Low	21%	0.60	0.68	0.40	R-30	R-30	R-19	R-19	R-10	R-19	R-10
<b>VI.<sup>7</sup></b>	Med.	25%	0.45 <sup>7</sup>	0.68	0.40	R-38	R-30	R-19	R-19	R-10	R-25	R-10
<b>VII.<sup>7</sup></b>	Med.	30%	0.40 <sup>7</sup>	0.68	0.40	R-30	R-30	R-19	R-19	R-10	R-25	R-10
<b>VIII.</b>	Med.	unlimited	0.25	0.40	0.40	R-30	R-30	R-19	R-19	R-10	R-25	R-10
<b>Climate Zone 2</b>												
<b>I.</b>	Med.	10%	0.70	0.64	0.40	R-38	R-30	R-19	R-19	R-12	R-25	R-10
<b>II.</b>	Med.	12%	0.65	0.64	0.40	R-38	R-30	R-19	R-19	R-12	R-25	R-10
<b>III.</b>	High	17%	0.65	0.64	0.40	R-38	R-30	R-19	R-19	R-12	R-25	R-10
<b>IV.*</b>	Med.	17%	0.60	0.64	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10
<b>V.</b>	Low	17%	0.50	0.64	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10
<b>VI.</b>	Med.	21%	0.50	0.64	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10
<b>VII.</b>	Med.	25%	0.40 <sup>8</sup>	0.64	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10
<b>VIII.</b>	Med.	30%	0.40 <sup>8</sup>	0.64	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10
<b>IX.</b>	Med.	unlimited	0.25	0.40	0.40	R-38	R-30	R-19	R-19	R-12	R-30	R-10

- \* Reference Case
- \*\* Nominal R-values are for wood frame assemblies only or assemblies built in accordance with Section 601.1.
- 1 Minimum requirements for each option listed. For example, if a proposed design has a glazing ratio to the conditioned floor area of 19%, it shall comply with all of the requirements of the 21% glazing option (or higher). Proposed designs which cannot meet the specific requirements of a listed option above may calculate compliance by Chapters 4 or 5 of this Code.
- 2 Requirement applies to all ceilings except single rafter or joist vaulted ceilings. 'Adv' denotes Advanced Framed Ceiling.
- 3 Requirement applicable only to single rafter or joist vaulted ceilings.
- 4 Below grade walls shall be insulated either on the exterior to a minimum level of R-10, or on the interior to the same level as walls above grade. Exterior insulation installed on below grade walls shall be a water resistant material, manufactured for its intended use, and installed according to the manufacturer's specifications. See Section 602.2.
- 5 Floors over crawl spaces or exposed to ambient air conditions.
- 6 Required slab perimeter insulation shall be a water resistant material, manufactured for its intended use, and installed according to manufacturer's specifications. See Section 602.4.

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- 7 The following options shall be applicable to buildings less than three stories: 0.50 maximum for glazing areas of 25% or less; 0.45 maximum for glazing areas of 30% or less.
- 8 The following options shall be applicable to buildings less than three stories: 0.45 maximum for glazing areas of 25% or less; 0.40 maximum for glazing areas of 30% or less.
- 9 Minimum HVAC Equipment efficiency requirement. 'Low' denotes an AFUE of 0.74. 'Med.' denotes an AFUE of 0.78. 'High' denotes an AFUE of 0.88. Minimum HVAC Equipment efficiency requirement for heat pumps. 'Low' denotes an HSPF of 6.35. 'Med' denotes an HSPF of 6.8. 'High' an HSPF of 7.7. Water and ground source heat pumps shall be considered as medium efficiency and have a minimum COP as required in Table 5-7.
- 10 Doors, including all fire doors, shall be assigned default U-factors from Table 10-6C (~~or 10-6D~~).
- 11 Log and solid timber walls with a minimum average thickness of 3.5" are exempt from this insulation requirement.
- 12. Where a maximum glazing area is listed, the total glazing area (combined vertical plus overhead) as a percent of gross conditioned floor area shall be less than or equal to that value. Overhead glazing with U-factor of U=0.040 or less is not included in glazing area limitations.
- 13. Overhead glazing shall have U-factors determined in accordance with NFRC 100 or as specified in Section 502.1.5.

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-0701** (~~(Standards)~~) **Scope.** The following standards shall apply to Chapters 1 through 20. The standards and portions thereof, which are referred to in various parts of this Code shall be part of the Washington State Energy Code and are hereby declared to be a part of this Code.

~~((CODE))~~

REFERENCE

STANDARD

NO.

TITLE AND SOURCE

- RS-1 ~~((1997 ASHRAE Fundamentals Handbook))~~ Same as RS-27.
- RS-2 through RS-3 (Reserved.)
- RS-4 ASHRAE Standard 55-92 Thermal Environmental Conditions for Human Occupancy.
- RS-5 through RS-8 (Reserved.)
- RS-9 ASHRAE/IES Standard 90.1-1989, Efficient Design of New Buildings Except New Low-Rise Residential Buildings.
- RS-10 Standard for Packaged Terminal Air Conditioners and Heat Pumps, ARI Standard 310/380-93.
- RS-11 ~~((1995))~~ 1999 ASHRAE HVAC Systems and Applications Handbook.
- RS-12 through RS-14 (Reserved.)
- RS-15 1996 ASHRAE System and Equipment Handbook.
- RS-16 SMACNA, Installation Standards for Residential Heating and Air Conditioning Systems, 6th Edition, 1988.
- RS-17 ~~((SMACNA, HVAC Duct Construction Standards Metal and Flexible, 2nd Edition, 1995.))~~ Same as RS-18.
- RS-18 ~~((Same as Standard RS-17.))~~ SMACNA, HVAC Duct Construction Standards Metal and Flexible, 2nd Edition, 1995.
- RS-19 SMACNA, Fibrous Glass Duct Construction Standards, 6th Edition, 1992.
- RS-20 ~~((1994))~~ 1998 ASHRAE Refrigeration Handbook.

~~((CODE))~~

REFERENCE

STANDARD

NO.

TITLE AND SOURCE

- RS-21 Same as Standard RS-10.
- RS-22 through RS-24 (Reserved.)
- RS-25 ~~((Thermal Bridge in Sheet Metal Construction from Appendix E of Standard RS-9.))~~ Same as RS-27.
- RS-26 Super Good Cents Technical Reference (Builder's Field Guide).
- RS-27 1997 ASHRAE Fundamentals Handbook.
- RS-28 (Reserved.)
- RS-29 Nonresidential Building Design by Systems Analysis.
- RS-30 Title 10, Code of Federal Regulations (CFR), Part 430 (March 14, 1988).
- RS-31 National Fenestration Rating Council (NFRC) Standard 100-1997.

ACCREDITED AUTHORITATIVE AGENCIES

ANSI refers to the American National Standards Institute, Inc., 11 West 42nd Street, New York, NY 10036  
Phone (212) 642-4900 Fax (212) 398-0023, Internet [www.ansi.org](http://www.ansi.org)

ARI refers to the Air Conditioning and Refrigeration Institute, 4301 N. Fairfax Dr., Suite 425, Arlington, VA 22203  
Phone (703) 524-8800 Fax (703) 528-3816, Internet [www.ari.org](http://www.ari.org)

ASHRAE refers to the American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, GA 30329  
Phone (404) 636-8400 Fax (404) 321-5478, Internet [www.ashrae.org](http://www.ashrae.org)

ASTM refers to the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959  
Phone (610) 832-9585 Fax (610) 832-9555, Internet [www.astm.org](http://www.astm.org)

CTI refers to the Cooling Tower Institute, 530 Wells Fargo Drive, Suite 218, Houston, TX 77090  
Phone (281) 583-4087 Fax (281) 537-1721, Internet [www.cti.org](http://www.cti.org)

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IES refers to the Illuminating Engineering Society, 120 Wall Street, Floor 17, New York, NY 10005-4001  
 Phone (212) 248-5000 Fax (212) 248-5017, Internet ((www.ies.org)) [www.iesna.org](http://www.iesna.org)

NFRC refers to the National Fenestration Rating Council, Incorporated, 1300 Spring Street, Suite ((420)) 500, Silver Spring, Maryland 20910  
 Phone (301) 589-NFRC Fax (301) 588-0854, Internet [www.nfrc.org](http://www.nfrc.org)

SMACNA refers to the Sheet Metal and Air Conditioning Contractors National Association, Inc., 4201 Lafayette Center Drive, P.O. Box 221230, Chantilly, VA 20153-1230  
 Phone (703) 803-2980 Fax (703) 803-3732, Internet [www.smacna.org](http://www.smacna.org)

**AMENDATORY SECTION** (Amending WSR 91-01-112, filed 12/19/90, effective 7/1/91)

**WAC 51-11-1001 Section 1001 General.**

1001.1 Scope: The following defaults shall apply to Chapters 1 through 20. This chapter includes tables of seasonal average heat-loss coefficients for specified nominal insulation. The heat-loss coefficients may also be used for heating system sizing.

1001.2 Description: These coefficients were developed primarily from data and procedures from Standard ((RS-4)) RS-27, and taken specifically from Standard RS-26, listed in Chapter 7.

Coefficients not contained in this chapter may be computed using the procedures listed in these references if the assumptions in the following sections and Standard RS-26, listed in Chapter 7, are used, along with data from the sources referenced above.

1001.3 Air Films: Default R-values used for air films shall be as follows:

R-Value	Condition
0.17	All exterior surfaces
0.61	Interior horizontal surfaces, heat flow up
0.92	Interior horizontal surfaces, heat flow down
0.68	Interior vertical surfaces

1001.4 Compression of Insulation: Insulation which is compressed shall be rated in accordance with Table 10-A or reduction in value may be calculated in accordance with the procedures in Standard RS-27, listed in Chapter 7.

**TABLE 10-A**  
**R-Value of Fiberglass Batts Compressed within Various Depth Cavities**

Insulation R-Value at Standard Thickness												
R-Value	38	30	22	21	19	15	13	11	8	5	3	
Standard Thickness	12"	9-1/2"	6-3/4"	5-1/2"	6-1/4"	3-1/2"	3-5/8"	3-1/2"	2-1/2"	1-1/2"	3/4"	
Nominal Lumber Sizes, Inches	Actual Depth of Cavity, Inches	Insulation R-Values when Installed in a Confined Cavity										
2 x 12	11-1/4	37	=	=	=	=	=	=	=	=	=	=
2 x 10	9-1/4	32	30	=	=	=	=	=	=	=	=	=
2 x 8	7-1/4	27	26	=	=	=	=	=	=	=	=	=
2 x 6	5-1/2	=	21	20	21	18	=	=	=	=	=	=
2 x 4	3-1/2	=	=	14	=	13	15	13	11	=	=	=
2 x 3	2-1/2	=	=	=	=	=	=	9.8	=	=	=	=
2 x 2	1-1/2	=	=	=	=	=	=	6.3	6.0	5.7	5.0	=
2 x 1	3/4	=	=	=	=	=	=	=	=	=	3.2	3.0

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-1002 Section 1002: Below grade walls and slabs.**

1002.1 General: Table 10-1 lists heat-loss coefficients for below-grade walls and floors.

Coefficients for below-grade walls are given as U-factors (Btu/hr•ft<sup>2</sup>•°F ((per square foot)) of wall area). Coefficients for below-grade slabs are listed as F-factors (Btu/hr•ft•°F per lineal foot of slab perimeter).

Below-grade wall U-factors are only valid when used with the accompanying below-grade slab F-factors, and vice versa.

1002.2 Component Description: All below-grade walls are assumed to be eight-inch concrete. The wall is assumed to extend from the slab upward to the top of the mud sill for the distance specified in Table 10-1, with six inches of concrete wall extending above grade.

Interior insulation is assumed to be fiberglass batts placed in the cavity formed by 2x4 framing on twenty-four inch centers with one-half inch of gypsum board as the interior finish material. Exterior insulation is assumed to be applied directly to the exterior of the below-grade wall from

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the top of the wall to the footing. The exterior case does not assume any interior framing or sheetrock.

In all cases, the entire wall surface is assumed to be insulated to the indicated nominal level with the appropriate framing and insulation application. Coefficients are listed for wall depths of two, three and one-half, and seven feet below grade. Basements shallower than two feet should use on-grade slab coefficients.

Heat-loss calculations for wall areas above grade should use above-grade wall U-factors, beginning at the mudsill.

1002.3 Insulation Description: Coefficients are listed for the following four configurations:

1. Uninsulated: No insulation or interior finish.
2. Interior insulation: Interior 2x4 insulated wall without a thermal break between concrete wall and slab.
3. Interior insulation w/thermal break: Interior 2x4 insulated wall with R-5 rigid board providing a thermal break between the concrete wall and the slab.
4. Exterior insulation: Insulation applied directly to the exterior surface of the concrete wall.

**TABLE 10-1  
DEFAULT WALL U-FACTORS AND SLAB F-FACTORS FOR BASEMENTS**

	Below Grade Wall U-factor	Below Grade Slab F-factor
<b>2-Foot Depth Below Grade</b>		
Uninsulated	0.350	0.59
R-11 Interior	0.066	0.68
R-11 Interior w/tb	0.070	0.60
R-19 Interior	0.043	0.69
R-19 Interior w/tb	0.045	0.61
R-10 Exterior	0.070	0.60
R-12 Exterior	0.061	0.60
<b>3.5-Foot Depth Below Grade</b>		
Uninsulated	0.278	0.53
R-11 Interior	0.062	0.63
R-11 Interior w/tb	0.064	0.57
R-19 Interior	0.041	0.64
R-19 Interior w/tb	0.042	0.57
R-10 Exterior	0.064	0.57
R-12 Exterior	0.057	0.57
<b>7-Foot Depth Below Grade</b>		
Uninsulated	0.193	0.46
R-11 Interior	0.054	0.56
R-11 Interior w/tb	0.056	0.42
R-19 Interior	0.037	0.57
R-19 Interior w/tb	0.038	0.43
R-10 Exterior	0.056	0.42
R-12 Exterior	0.050	0.42

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**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-1003 Section 1003: On-grade slab floors.**

1003.1 General: Table 10-2 lists heat-loss coefficients for heated on-grade slab floors, in units of Btu/h·°F((+hr)) per lineal foot of perimeter.

1003.2 Component Description: All on-grade slab floors are assumed to be six-inch concrete poured directly onto the

earth. The bottom of the slab is assumed to be at grade line. Monolithic and floating slabs are not differentiated.

Soil is assumed to have a conductivity of 0.75 Btu/hr·°F·ft<sup>2</sup>. Slabs two-feet or more below grade should use basement coefficients.

1003.3 Insulation Description: Coefficients are provided for the following three configurations:

Two-Foot (or four-foot) vertical: Insulation is applied directly to the slab exterior, extending downward from the

top of the slab to a depth of two-feet (or four-feet) below grade.

Two-Foot (or four-foot) horizontal: Insulation is applied directly to the underside of the slab, and run horizontally from the perimeter inward for two-feet or four-feet. The slab edge is exposed in this configuration.

Note: A horizontal installation with a thermal break of at least R-5 at the slab edge should use the vertical-case F-factors.

Fully insulated slab: Insulation extends from the top of the slab, along the entire perimeter, and completely covers the area under the slab. Thicker perimeter insulation covers the slab edge and extends 2 feet under the slab.

**TABLE 10-2  
DEFAULT F-FACTORS FOR ON-GRADE SLABS**

Insulation type	R-0	R-5	R-10	R-15
<b>Unheated Slab</b>				
Uninsulated slab	0.73	—	—	—
2-ft Horizontal (No thermal break)	—	0.70	0.70	0.69
4-ft Horizontal (No thermal break)	—	0.67	0.64	0.63
2-ft Vertical	—	0.58	0.54	0.52
4-ft Vertical	—	0.54	0.48	0.45
Fully insulated slab	—	—	0.36	—
<b>Heated Slab</b>				
Uninsulated slab	0.84	—	—	—
Fully insulated slab	—	0.74	0.55	0.44
R-5 Center (With perimeter insulation)	—	—	0.66	0.62
R-10 Center (With perimeter insulation)	—	—	—	0.51
3-ft Vertical	—	—	0.78	—

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-1004 Section 1004:** ((~~Crawlspace floors.~~)) **Floors over unconditioned space.**

1004.1 General: Tables 10-3 ((~~and~~)), 10-4 and 10-4a list heat-loss coefficients for floors over ((~~crawlspace~~)) unconditioned spaces in units of Btu/h·ft<sup>2</sup>·°F ((~~hr per square foot of floor~~)).

They are derived from procedures listed in ((~~RS-1~~)) RS-27, listed in Chapter 7, assuming an average outdoor temperature of 45° F, an average indoor temperature of 65° F, and a crawlspace area of ((~~one thousand three hundred fifty~~)) 1350 ft<sup>2</sup> and ((~~one hundred fifty~~)) 100 ft of perimeter. The crawlspace is assumed to be 2.5((-))feet high, with ((~~twenty-four~~)) 24 inches below grade and ((~~six~~)) 6 inches above grade.

1004.2 Crawlspace Description: Four ((~~crawlspace~~)) configurations are considered: Vented crawlspace, unvented crawlspace, ((~~enclosed and~~)) heated plenum crawlspace and exposed floor.

Vented crawlspaces: Assumed to have ((~~three~~)) 3.0 air-changes per hour, with at least ((~~one~~)) 1.0 ft<sup>2</sup> of net-free ventilation in the foundation for every three hundred ft<sup>2</sup> of crawlspace floor area. The crawlspace is not actively heated.

Floors over unheated areas, such as garages, may only use those values which have R-0 perimeter insulation.

Unvented crawlspaces: Assumed to have 1.5 air changes per hour, with less than ((~~one~~)) 1.0 ft<sup>2</sup> of net-free ventilation

in the foundation for every three hundred ft<sup>2</sup> of crawlspace floor area. The crawlspace is not actively heated. Floors over unheated basements may only use those values which have R-0 perimeter insulation.

Heated-plenum crawlspaces: Assumed to have 0.25 air-changes per hour, with no foundation vents. Heated supply air from central furnace is blown into a crawlspace and allowed to enter the living space unducted via holes cut into the floor.

Enclosed floors: Assumes no buffer space, and a covering of one-half inch of T1-11 on the exterior of the cavity exposed to the outside air or rigid insulation below a concrete floor, such as over parking garages.

1004.3 Construction Description: Floors are assumed to be either joisted floors framed on sixteen inch centers, or post and beam on four by eight foot squares. Insulation is assumed to be installed under the subflooring between the joists or beams with no space between the insulation and the subfloor. Insulation is assumed to be uncompressed. Exposed floors also include concrete with continuous rigid insulation assumed.

Perimeter insulation is assumed to extend from the top of the rim joist to the crawlspace floor and then inward along the ground (on top of the ground cover) for at least twenty-four inches.

Floor coverings are assumed to be light carpet with rubber pad.

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**TABLE 10-3  
DEFAULT U-FACTORS FOR FLOORS OVER  
VENTED CRAWLSPACE OR UNHEATED BASE-  
MENT**

Nominal R-value		U-factor	
Floor	Perimeter	Post & Beam	Joists
0	0	0.112	0.134
	11	0.100	0.116
	19	0.098	0.114
	30	0.093	0.107
11	0	0.052	0.056
	11	0.048	0.052
19	0	0.038	0.041
	11	0.036	0.038
22	0	0.034	0.037
	11	0.033	0.035
25	0	0.032	0.034
	11	0.031	0.033
30	0	0.028	0.029
	11	0.027	0.028
38	0	0.024	0.025
	11	0.024	0.024

**TABLE 10-4  
DEFAULT U-FACTORS FOR FLOORS OVER  
HEATED PLENUM CRAWLSPACES**

Nominal R-value Perimeter	U-factor
11	0.085
19	0.075
30	0.069

**TABLE 10-4A  
EXPOSED FLOOR**

Nominal R-value	U-factor		
	Concrete	Wood Joist	Metal Joist
R-11	0.077	0.088	0.14
R-15	0.059	0.076	0.12
R-19	0.048	0.062	0.11
R-21	0.043	0.057	0.11
R-25	0.037	0.051	0.10
R-30	0.031	0.040	0.09
R-38	0.025	0.034	0.08

Note: Crawlspace used as heated plenums have approximately 30% higher heat-loss rate than unvented crawlspaces with the same assumed ACH. Default U-values in Table 10-4 reflect this higher rate of heat loss.

Section 1005.1 General: Table 10-5, 10-5A and 10-5B list heat-loss coefficients for the opaque portion of above-grade wood stud frame walls ((Btu/°F·hr per square foot)), metal stud frame walls and concrete masonry walls (Btu/h·ft<sup>2</sup>·°F) respectively. They are derived from procedures listed in ((RS-1)) RS-27, listed in Chapter 7 ((assuming exterior air films at 7.5 mph wind speed)). For intermediate floor slabs which penetrate the insulated wall, use the concrete wall U-factors in Table 10-5B.

Insulation is assumed to uniformly fill the entire cavity and to be installed as per manufacturer's directions. All walls are assumed to be finished on the inside with one-half inch gypsum wallboard, and on the outside with either beveled wood siding over one-half inch plywood sheathing or with five-eighths inch T1-11 siding. Insulated sheathing (either interior or exterior) is assumed to cover the entire opaque wall surface.

1005.2 Framing Description: For wood stud frame walls, three framing types are considered, and defined as follows:

Standard: Studs framed on sixteen inch centers with double top plate and single bottom plate. Corners use three studs and each opening is framed using two studs. Headers consist of double 2X or single 4X material with an air space left between the header and the exterior sheathing. Interior partition wall/exterior wall intersections use two studs in the exterior wall.

Framing weighting factors:

Studs and plates	.19
Insulated cavity	.77
Headers	.04

Intermediate: Studs framed on sixteen inch centers with double top plate and single bottom plate. Corners use two studs or other means of fully insulating corners, and each opening is framed by two studs. Headers consist of double 2X material with R-10 insulation between the header and exterior sheathing. Interior partition wall/exterior wall intersections are fully insulated in the exterior wall.

Framing weighting factors:

Studs and plates	.18
Insulated cavity	.78
Headers	.04

Advanced: Studs framed on twenty-four inch centers with double top plate and single bottom plate. Corners use two studs or other means of fully insulating corners, and one stud is used to support each header. Headers consist of double 2X material with R-10 insulation between the header and exterior sheathing. Interior partition wall/exterior wall intersections are fully insulated in the exterior wall.

Framing weighting factors:

Studs and plates	.13
Insulated cavity	.83
Headers	.04

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-1005 Section 1005: Above-grade walls.**

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1005.3 Component Description: Default coefficients for four types of walls are listed: single-stud walls, metal stud walls, strap walls, and double-stud walls.

**Single-Stud Wall:** Assumes either 2x4 or 2x6 studs framed on sixteen or twenty-four inch centers. Headers are solid for 2x4 walls and double 2x for 2x6 walls, with either dead-air or rigid-board insulation in the remaining space.

**Metal Stud Wall:** Assumes metal studs spaced on 16 or 24 inch centers with insulation installed to fill wall cavities. Continuous rigid board insulation is applied without creating uninsulated voids in the wall assembly.

**Strap Wall:** Assumes 2x6 studs framed on sixteen or twenty-four inch centers. 2x3 or 2x4 strapping is run horizontally along the interior surface of the wall to provide additional space for insulation.

**Double-Stud Wall:** Assumes an exterior structural wall and a separate interior, non-structural wall. Insulation is placed in both wall cavities and in the space between the ~~((two))~~ 2 walls. Stud spacing is assumed to be on ~~((twenty-four))~~ 24 inch centers for both walls.

**TABLE 10-5  
DEFAULT U-FACTORS FOR ABOVE-GRADE WALLS**

**2 x 4 Single Wood Stud: R-11 Batt**

Siding Material/Framing Type				
	Lapped Wood		T1-11	
R-value of Foam Board	STD	ADV	STD	ADV
0	0.088	0.084	0.094	0.090
1	0.080	0.077	0.085	0.082
2	0.074	0.071	0.078	0.075
3	0.069	0.066	0.072	0.070
4	0.064	0.062	0.067	0.065
5	0.060	0.058	0.063	0.061
6	0.056	0.055	0.059	0.057
7	0.053	0.052	0.055	0.054
8	0.051	0.049	0.052	0.051
9	0.048	0.047	0.050	0.049
10	0.046	0.045	0.047	0.046
11	0.044	0.043	0.045	0.044
12	0.042	0.041	0.043	0.042

**NOTE:**  
Nominal Batt R-value:  
R-11 at 3.5 inch thickness

Installed Batt R-value:  
R-11 in 3.5 inch cavity

**2 x 4 Single Wood Stud: R-13 Batt**

Siding Material/Framing Type				
	Lapped Wood		T1-11	
R-value of Foam Board	STD	ADV	STD	ADV
0	0.082	0.078	0.088	0.083
1	0.075	0.072	0.080	0.076
2	0.069	0.066	0.073	0.070
3	0.065	0.062	0.068	0.065
4	0.060	0.058	0.063	0.061
5	0.057	0.055	0.059	0.057
6	0.053	0.052	0.056	0.054
7	0.051	0.049	0.052	0.051
8	0.048	0.047	0.050	0.048
9	0.046	0.045	0.047	0.046
10	0.044	0.043	0.045	0.044
11	0.042	0.041	0.043	0.042
12	0.040	0.039	0.041	0.040

**NOTE:**  
Nominal Batt R-value:  
R-13 at 3.63 inch thickness

Installed Batt R-value:  
R-12.7 in 3.5 inch cavity

PERMANENT

**2 x 4 Single Wood Stud: R-15 Batt**

Siding Material/Framing Type				
R-value of Foam Board	Lapped Wood		T1-11	
	STD	ADV	STD	ADV
0	0.076	0.071	0.081	0.075
1	0.069	0.065	0.073	0.069
2	0.064	0.061	0.068	0.069
3	0.060	0.057	0.063	0.059
4	0.056	0.053	0.059	0.056
5	0.053	0.051	0.055	0.052
6	0.050	0.048	0.052	0.050
7	0.047	0.046	0.049	0.047
8	0.045	0.044	0.047	0.045
9	0.043	0.042	0.044	0.043
10	0.041	0.040	0.042	0.041
11	0.039	0.038	0.041	0.039
12	0.038	0.037	0.039	0.038

**NOTE:**

Nominal Batt R-value:  
R-15 at 3.5 inch thickness

Installed Batt R-value:  
R-15 in 3.5 inch cavity

**2 x 6 Single Wood Stud: R-19 Batt**

Siding Material/Framing Type						
R-value of Foam Board	Lapped Wood			T1-11		
	STD	INT	ADV	STD	INT	ADV
0	0.062	0.058	0.055	0.065	0.061	0.058
1	0.058	0.055	0.052	0.060	0.057	0.055
2	0.054	0.052	0.050	0.056	0.054	0.051
3	0.051	0.049	0.047	0.053	0.051	0.049
4	0.048	0.046	0.045	0.050	0.048	0.046
5	0.046	0.044	0.043	0.048	0.046	0.044
6	0.044	0.042	0.041	0.045	0.044	0.042
7	0.042	0.040	0.039	0.043	0.042	0.040
8	0.040	0.039	0.038	0.041	0.040	0.039
9	0.038	0.037	0.035	0.039	0.038	0.037
10	0.037	0.036	0.035	0.038	0.037	0.036
11	0.036	0.035	0.034	0.036	0.035	0.035
12	0.034	0.033	0.033	0.035	0.034	0.033

**NOTE:**

Nominal Batt R-value:  
R-19 at 6 inch thickness

Installed Batt R-value:  
R-18 in 5.5 inch cavity

**PERMANENT**

**2 x 6 Single Wood Stud: R-21 Batt**

Siding Material/Framing Type						
R-value of Foam Board	Lapped Wood			T1-11		
	STD	INT	ADV	STD	INT	ADV
0	0.057	0.054	0.051	0.060	0.056	0.053
1	0.054	0.051	0.048	0.056	0.053	0.050
2	0.050	0.048	0.045	0.052	0.050	0.047
3	0.048	0.045	0.043	0.049	0.047	0.045
4	0.045	0.043	0.041	0.047	0.045	0.043
5	0.043	0.041	0.040	0.044	0.042	0.041
6	0.041	0.039	0.038	0.042	0.041	0.039
7	0.039	0.038	0.036	0.040	0.039	0.037
8	0.038	0.036	0.035	0.039	0.037	0.036
9	0.036	0.035	0.034	0.037	0.036	0.035
10	0.035	0.034	0.033	0.036	0.035	0.033
11	0.033	0.033	0.032	0.034	0.033	0.032
12	0.032	0.031	0.031	0.033	0.032	0.031

**NOTE:**  
 Nominal Batt R-value:  
 R-21 at 5.5 inch thickness  
  
 Installed Batt R-value:  
 R-21 in 5.5 inch cavity

**2 x 6 Single Wood Stud: R-22 Batt**

Siding Material/Framing Type						
R-value of Foam Board	Lapped Wood			T1-11		
	STD	INT	ADV	STD	INT	ADV
0	0.059	0.055	0.052	0.062	0.058	0.054
1	0.055	0.052	0.049	0.057	0.054	0.051
2	0.052	0.049	0.047	0.054	0.051	0.048
3	0.049	0.046	0.044	0.050	0.048	0.046
4	0.046	0.044	0.042	0.048	0.046	0.044
5	0.044	0.042	0.041	0.045	0.043	0.042
6	0.042	0.040	0.039	0.043	0.042	0.040
7	0.040	0.039	0.037	0.041	0.040	0.038
8	0.038	0.037	0.036	0.039	0.038	0.037
9	0.037	0.036	0.035	0.038	0.037	0.035
10	0.035	0.034	0.033	0.036	0.035	0.034
11	0.034	0.033	0.032	0.035	0.034	0.033
12	0.033	0.032	0.031	0.034	0.033	0.032

**NOTE:**  
 Nominal Batt R-value:  
 R-22 at 6.75 inch thickness  
  
 Installed Batt R-value:  
 R-20 in 5.5 inch cavity

**PERMANENT**

**2 x 6 Single Wood Stud: Two R-11 Batts**

Siding Material/Framing Type						
	Lapped Wood			T1-11		
R-value of Foam Board	STD	INT	ADV	STD	INT	ADV
0	0.060	0.057	0.054	0.063	0.059	0.056
1	0.056	0.053	0.051	0.059	0.056	0.053
2	0.053	0.050	0.048	0.055	0.052	0.050
3	0.050	0.048	0.046	0.052	0.049	0.047
4	0.047	0.045	0.044	0.049	0.047	0.045
5	0.045	0.043	0.042	0.046	0.045	0.043
6	0.043	0.041	0.040	0.044	0.043	0.041
7	0.041	0.040	0.038	0.042	0.041	0.039
8	0.039	0.038	0.037	0.040	0.039	0.038
9	0.038	0.037	0.036	0.039	0.038	0.036
10	0.036	0.035	0.034	0.037	0.036	0.035
11	0.035	0.034	0.033	0.036	0.035	0.034
12	0.034	0.033	0.032	0.034	0.034	0.033

**NOTE:**

Nominal Batt R-value:  
R-22 at 7 inch thickness

Installed Batt R-value:  
R-18.9 in 5.5 inch cavity

PERMANENT

**2 x 8 Single Stud: R-25 Batt**

Siding Material/Framing Type						
	Lapped Wood			T1-11		
R-value of Foam Board	STD	INT	ADV	STD	INT	ADV
0	0.051	0.047	0.045	0.053	0.049	0.046
1	0.048	0.045	0.043	0.049	0.046	0.044
2	0.045	0.043	0.041	0.047	0.044	0.042
3	0.043	0.041	0.039	0.044	0.042	0.040
4	0.041	0.039	0.037	0.042	0.040	0.038
5	0.039	0.037	0.036	0.040	0.038	0.037
6	0.037	0.036	0.035	0.038	0.037	0.036
7	0.036	0.035	0.033	0.037	0.035	0.034
8	0.035	0.033	0.032	0.035	0.034	0.033
9	0.033	0.032	0.031	0.034	0.033	0.032
10	0.032	0.031	0.030	0.033	0.032	0.031
11	0.031	0.030	0.029	0.032	0.031	0.030
12	0.030	0.029	0.028	0.031	0.030	0.029

**NOTE:**

Nominal Batt R-value:  
R-25 at 8 inch thickness

Installed Batt R-value:  
R-23.6 in 7.25 inch cavity

**2 x 6: Strap Wall**

	Siding Material/Frame Type			
	Lapped Wood		T1-11	
	STD	ADV	STD	ADV
R-19 + R-11 Batts	0.036	0.035	0.038	0.036
R-19 + R-8 Batts	0.041	0.039	0.042	0.040



**2 x 6 + 2 x 4: Double Wood Stud**

Batt Configuration			Siding Material/Frame Type			
			Lapped Wood		T1-11	
Exterior	Middle	Interior	STD	ADV	STD	ADV
R-19	————	R-11	0.040	0.037	0.041	0.038
R-19	————	R-19	0.034	0.031	0.035	0.032
R-19	R-8	R-11	0.029	0.028	0.031	0.029
R-19	R-11	R-11	0.027	0.026	0.028	0.027
R-19	R-11	R-19	0.024	0.023	0.025	0.023
R-19	R-19	R-19	0.021	0.020	0.021	0.020

**2 x 4 + 2 x 4: Double Wood Stud**

Batt Configuration			Siding Material/Frame Type			
			Lapped Wood		T1-11	
Exterior	Middle	Interior	STD	ADV	STD	ADV
R-11	————	R-11	0.050	0.046	0.052	0.048
R-19	————	R-11	0.039	0.037	0.043	0.039
R-11	R-8	R-11	0.037	0.035	0.036	0.036
R-11	R-11	R-11	0.032	0.031	0.033	0.032
R-13	R-13	R-13	0.029	0.028	0.029	0.028
R-11	R-19	R-11	0.026	0.026	0.027	0.026

PERMANENT

**Log Walls**

Average Log Diameter, Inches	U-factor
6	0.148
8	0.111
10	0.089
12	0.074
14	0.063
16	0.056

**NOTE:**

R-value of wood:  
R-1.25 per inch thickness

Average wall thickness  
90% average log diameter

**Stress Skin Panel**

Panel Thickness, Inches	U-factor
3 1/2	0.071
5 1/2	0.048
7 1/4	0.037
9 1/4	0.030
11 1/4	0.025

**NOTE:**

R-value of expanded polystyrene: R-3.85 per inch

Framing: 6%  
Spline: 8%

No thermal bridging between interior and exterior splines

**Metal Stud Walls:** The nominal R-values in Table 10-5A may be used for purposes of calculating metal stud wall section U-factors in lieu of the ASHRAE zone calculation method as provided in Chapter 24 of Standard RS-27.

TABLE 10-5A

**Default U-factors for Overall Assembly Metal Stud Walls, Effective R-values for Metal Framing and Cavity Only, and Default Metal Building U-factors**

**OVERALL ASSEMBLY U-FACTORS FOR METAL STUD WALLS**

Metal Framing	R-Value of Continuous Foam Board Insulation	Cavity Insulation					
		R-11	R-13	R-15	R-19	R-21	R-25
16" o.c.	R-0 (none)	U-0.14	U-0.13	U-0.12	U-0.10	U-0.097	U-0.091
	R-1	U-0.12	U-0.12	U-0.11	U-0.094	U-0.089	U-0.083
	R-2	U-0.11	U-0.010	U-0.099	U-0.086	U-0.081	U-0.077
	R-3	U-0.10	U-0.095	U-0.090	U-0.079	U-0.075	U-0.071
	R-4	U-0.091	U-0.087	U-0.082	U-0.073	U-0.070	U-0.067
	R-5	U-0.083	U-0.080	U-0.076	U-0.068	U-0.065	U-0.062
	R-6	U-0.077	U-0.074	U-0.071	U-0.064	U-0.061	U-0.059
	R-7	U-0.071	U-0.069	U-0.066	U-0.060	U-0.058	U-0.055
	R-8	U-0.067	U-0.064	U-0.062	U-0.057	U-0.055	U-0.053
	R-9	U-0.062	U-0.060	U-0.058	U-0.054	U-0.052	U-0.050
	R-10	U-0.059	U-0.057	U-0.055	U-0.051	U-0.049	U-0.048

24" o.c.	R-0 (none)	U-0.13	U-0.12	U-0.11	U-0.091	U-0.085	U-0.079
	R-1	U-0.11	U-0.10	U-0.098	U-0.084	U-0.078	U-0.073
	R-2	U-0.10	U-0.091	U-0.089	U-0.077	U-0.073	U-0.068
	R-3	U-0.092	U-0.083	U-0.082	U-0.072	U-0.068	U-0.064
	R-4	U-0.084	U-0.077	U-0.076	U-0.067	U-0.063	U-0.060
	R-5	U-0.078	U-0.071	U-0.070	U-0.063	U-0.060	U-0.057
	R-6	U-0.072	U-0.067	U-0.066	U-0.059	U-0.056	U-0.054
	R-7	U-0.067	U-0.063	U-0.062	U-0.056	U-0.053	U-0.051
	R-8	U-0.063	U-0.059	U-0.058	U-0.053	U-0.051	U-0.048
	R-9	U-0.059	U-0.056	U-0.055	U-0.050	U-0.048	U-0.046
	R-10	U-0.056	U-0.053	U-0.052	U-0.048	U-0.046	U-0.044

**EFFECTIVE R-VALUES FOR METAL FRAMING AND CAVITY ONLY**

	Cavity		Nominal R-Value	Insulation	
	Nominal Depth, Inches	Actual Depth, Inches		Effective R-Value	
				16" O.C.	24" O.C.
Air Cavity	any	any	R-0.91 (air)	0.79	0.91
Wall	4	3-1/2	R-11	5.5	6.6
	4	3-1/2	R-13	6.0	7.2
	4	3-1/2	R-15	6.4	7.8
	6	5-1/2	R-19	7.1	8.6
	6	5-1/2	R-21	7.4	9.0
	8	7-1/4	R-25	7.8	9.6
Roof	Insulation is uncompressed		R-11	5.5	6.1
			R-19	7.0	9.1
			R-30	9.3	11.4

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**DEFAULT METAL BUILDING U-FACTORS**

	R-10	R-11	R-13	R-19	R-24	R-30
Faced fiber glass blanket insulation rolled over and perpendicular to structural frame. Metal covering sheets fastened to the frame, holding insulation in place.	0.133	0.127	0.114	0.091	na	na
Faced fiber glass batt insulation suspended between structural frame. Metal covering sheets fastened directly to frame.	0.131	0.123	0.107	0.079	0.065	0.057
Faced fiber glass blanket insulation rolled over and perpendicular to structural frame. Rigid insulation blocks placed over insulation to align with structural frame.	0.102	0.096	0.084	0.065	na	na
Faced fiber glass batt insulation suspended between structural frame. Rigid insulation blocks placed over insulation to align with structural frame.	0.099	0.093	0.080	0.059	0.048	0.041

**Concrete Masonry Walls:** The nominal R-values in Table 10-5B may be used for purposes of calculating concrete masonry wall section U-factors in lieu of the ASHRAE isothermal planes calculation method as provided in Chapter 24 of Standard RS-27.

**TABLE 10-5B**  
**Default U-Factors for Concrete and Masonry Walls**

<b>8" CONCRETE MASONRY</b>				
WALL DESCRIPTION	CORE TREATMENT			
	Partial Grout with UngROUTED Cores			Solid Grout
	Empty	Loose-fill insulated		
		Perlite	Vermiculite	
Exposed Block, Both Sides	0.40	0.23	0.24	0.43
R-5 Interior Insulation, Wood Furring	0.14	0.11	0.12	0.15
R-6 Interior Insulation, Wood Furring	0.14	0.11	0.11	0.14
R-10.5 Interior Insulation, Wood Furring	0.11	0.09	0.09	0.11
R-8 Interior Insulation, Metal Clips	0.11	0.09	0.09	0.11
R-6 Exterior Insulation	0.12	0.10	0.10	0.12
R-10 Exterior Insulation	0.08	0.07	0.07	0.08
R-9.5 Rigid Polystyrene Integral Insulation, Two Webbed Block	0.11	0.09	0.09	0.12

<b>12" CONCRETE MASONRY</b>				
WALL DESCRIPTION	CORE TREATMENT			
	Partial Grout with UngROUTED Cores			Solid Grout
	Empty	Loose-fill insulated		
		Perlite	Vermiculite	
Exposed Block, Both Sides	0.35	0.17	0.18	0.33
R-5 Interior Insulation, Wood Furring	0.14	0.10	0.10	0.13
R-6 Interior Insulation, Wood Furring	0.13	0.09	0.10	0.13
R-10.5 Interior Insulation, Wood Furring	0.11	0.08	0.08	0.10
R-8 Interior Insulation, Metal Clips	0.10	0.08	0.08	0.09
R-6 Exterior Insulation	0.11	0.09	0.09	0.11
R-10 Exterior Insulation	0.08	0.06	0.06	0.08
R-9.5 Rigid Polystyrene Integral Insulation, Two Webbed Block	0.11	0.08	0.09	0.12

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<b>8" CLAY BRICK</b>				
WALL DESCRIPTION	CORE TREATMENT			
	Partial Grout with UngROUTED Cores			Solid Grout
	Empty	Loose-fill insulated		
		Perlite	Vermiculite	
Exposed Block, Both Sides	0.50	0.31	0.32	0.56
R-5 Interior Insulation, Wood Furring	0.15	0.13	0.13	0.16
R-6 Interior Insulation, Wood Furring	0.15	0.12	0.12	0.15
R-10.5 Interior Insulation, Wood Furring	0.12	0.10	0.10	0.12
R-8 Interior Insulation, Metal Clips	0.11	0.10	0.10	0.11
R-6 Exterior Insulation	0.12	0.11	0.11	0.13
R-10 Exterior Insulation	0.08	0.08	0.08	0.09

<b>6" CONCRETE POURED OR PRECAST</b>				
WALL DESCRIPTION	CORE TREATMENT			
	Partial Grout with UngROUTED Cores			Solid Grout
	Empty	Loose-fill insulated		
		Perlite	Vermiculite	
Exposed Concrete, Both Sides	NA	NA	NA	0.61
R-5 Interior Insulation, Wood Furring	NA	NA	NA	0.16
R-6 Interior Insulation, Wood Furring	NA	NA	NA	0.15
R-10.5 Interior Insulation, Wood Furring	NA	NA	NA	0.12
R-8 Interior Insulation, Metal Clips	NA	NA	NA	0.12
R-6 Exterior Insulation	NA	NA	NA	0.13
R-10 Exterior Insulation	NA	NA	NA	0.09

**Notes for Default Table 10-5B**

1. Grouted cores at 40" x 48" on center vertically and horizontally in partial grouted walls.
2. Interior insulation values include 1/2" gypsum board on the inner surface.
3. Furring and stud spacing is 16" on center. Insulation is assumed to fill furring space and is not compressed.
4. Intermediate values may be interpolated using this table. Values not contained in this table may be computed using the procedures listed in Standard RS-27.

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-1006 Section 1006 Default U-factors for glazing and doors.**

1006.1 ((Un**tested**)) Glazing and Doors without NFRC Certification: ((Un**tested**)) Glazing and doors that do not have NFRC certification shall be assigned the ((U-factors from Tables 10-6A, 10-6B, 10-6C, 10-6D, or 10-6E as appropriate:)) following U-factors:

**TABLE 10-6**

**Other than Group R Occupancy: DEFAULT U-FACTORS FOR VERTICAL GLAZING, OVERHEAD GLAZING AND OPAQUE DOORS**

Vertical Glazing	U-Factor	
	Any Frame	Vinyl/Wood Frame
Single	1.45	1.45
Double	0.90	0.75
1/2 Inch Air, Fixed	0.75	0.60
1/2 Inch Air, Low-e <sup>(0.40)</sup> , Fixed	0.60	0.50
1/2 Inch Argon, Low-e <sup>(0.10)</sup> , Fixed	0.50	0.40

Overhead Glazing	U-Factor	
	Any Frame	Vinyl/Wood Frame
Single	2.15	2.15
Double	1.45	1.00
Low-e <sup>(0.40)</sup> or Argon	1.40	0.95

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<b>Overhead Glazing</b>		
	<b>U-Factor</b>	
	<b>Any Frame</b>	<b>Vinyl/Wood Frame</b>
Low-e <sup>(0.40)</sup> + Argon	1.30	0.85
Low-e <sup>(0.20)</sup> Air	1.30	0.90
Low-e <sup>(0.20)</sup> + Argon	1.25	0.80
Triple	1.25	0.80

**Notes:**

- Where a gap width is listed (i.e.: 1/2 inch), that is the minimum allowed.
- Where a low-emissivity emittance is listed (i.e.: 0.40, 0.20, 0.10), that is the maximum allowed.
- Where a gas other than air is listed (i.e.: Argon), the gas fill shall be a minimum of 90%.
- Where an operator type is listed (i.e.: Fixed), the default is only allowed for that operator type.
- Where a frame type is listed (i.e.: Wood/vinyl), the default is only allowed for that frame type. Wood/vinyl frame includes reinforced vinyl and aluminum-clad wood.

<b>Opaque Doors</b>	
	<b>U-Factor</b>
Uninsulated Metal	1.20
Insulated Metal (Including Fire Door and Smoke Vent)	0.60
Wood	0.50

**TABLE 10-6A**  
**Group R Occupancy: DEFAULT U-FACTORS FOR VERTICAL GLAZING**

Description <sup>1,2,3,4</sup>		Frame Type <sup>5,6</sup>			
		Aluminum	Aluminum Thermal Break <sup>7</sup>	Wood/Vinyl	
Windows	Single	1.20	1.20	1.20	
	Double, < 1/2"	Clear	0.92	0.75	0.63
		Clear+ Argon	0.87	0.71	0.60
		Low-e	0.85	0.69	0.58
		Low-e+Argon	0.79	0.62	0.53
	Double, ≥ 1/2"	Clear	0.86	0.69	0.58
		Clear+ Argon	0.83	0.67	0.55
		Low-e	0.78	0.61	0.51
		Low-e+Argon	0.75	0.58	0.48
	Triple,	Clear	0.70	0.53	0.43
		Clear+ Argon	0.69	0.52	0.41
		Low-e	0.67	0.49	0.40
		Low-e+Argon	0.63	0.47	0.37
Garden Windows	Single	2.60	n.a.	2.31	
	Double	Clear	1.81	n.a.	1.61
		Clear+ Argon	1.76	n.a.	1.56
		Low-e	1.73	n.a.	1.54
		Low-e+Argon	1.64	n.a.	1.47

- 1 <1/2"= a minimum dead air space of less than 0.5 inches between the panes of glass.  
≥ 1/2"= a minimum dead air space of 0.5 inches or greater between the panes of glass.  
Where no gap width is listed, the minimum gap width is 1/4".
- 2 Any low-e (emissivity) coating (0.1, 0.2 or 0.4).
- 3 U-factors listed for argon shall consist of sealed, gas-filled insulated units for argon, CO2, SF6, argon/SF6 mixtures and Krypton.
- 4 "Glass block" assemblies may use a U-factor of 0.51.
- 5 Insulated fiberglass framed products shall use wood/vinyl U-factors.
- 6 Aluminum clad wood windows shall use the U-factors listed for wood/vinyl windows.

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- 7 Aluminum Thermal Break= An aluminum thermal break framed window shall incorporate the following minimum design characteristics:
- a) The thermal conductivity of the thermal break material shall be not more than 3.6 Btu-in/h/ft<sup>2</sup>/°F;
  - b) The thermal break material must produce a gap in the frame material of not less than 0.210 inches; and,
  - c) All metal framing members of the products exposed to interior and exterior air shall incorporate a thermal break meeting the criteria in a) and b) above.

**TABLE 10-6B<sup>1</sup>**  
**Group R Occupancy: DEFAULT U-FACTORS FOR VERTICAL GLAZING**  
**FOR SMALL BUSINESSES**

DESCRIPTION <sup>2,3,4,5,6</sup>	FRAME TYPE <sup>7,8</sup>			
	ALUMINUM	ALUM. THERMAL BREAK <sup>9</sup>	WOOD/VINYL	ALUM. CLAD WOOD/REINFORCED VINYL <sup>10</sup>
Double, Clear 1/4"	0.82	0.66	0.56	0.59
Double, Clear 1/4"+ argon	0.77	0.63	0.53	0.56
Double, Low-e4 1/4"	0.76	0.61	0.52	0.54
Double, Low-e2 1/4"	0.73	0.58	0.49	0.51
Double, Low-e1 1/4"	0.70	0.55	0.47	0.49
Double, Low-e4 1/4"+ argon	0.70	0.55	0.47	0.49
Double, Low-e2 1/4"+ argon	0.66	0.52	0.43	0.46
Double, Low-e1 1/4"+ argon	0.64	0.50	0.41	0.43
Double, Clear 3/8"	0.78	0.63	0.54	0.57
Double, Clear 3/8"+ argon	0.75	0.60	0.51	0.54
Double, Low-e4 3/8"	0.72	0.57	0.48	0.51
Double, Low-e2 3/8"	0.69	0.54	0.45	0.48
Double, Low-e1 3/8"	0.66	0.51	0.43	0.46
Double, Low-e4 3/8"+ argon	0.68	0.53	0.44	0.47
Double, Low-e2 3/8"+ argon	0.63	0.49	0.41	0.44
Double, Low-e1 3/8"+ argon	0.61	0.47	0.39	0.41
Double, Clear 1/2"	0.75	0.60	0.50	0.54
Double, Clear 1/2"+ argon	0.72	0.58	0.48	0.51
Double, Low-e4 1/2"	0.68	0.53	0.44	0.47
Double, Low-e2 1/2"	0.64	0.50	0.41	0.44
Double, Low-e1 1/2"	0.61	0.47	0.39	0.42
Double, Low-e4 1/2"+ argon	0.65	0.50	0.42	0.44
Double, Low-e2 1/2"+ argon	0.60	0.46	0.37	0.40
Double, Low-e1 1/2"+ argon	0.58	0.43	0.35	0.38
Triple, Clear 1/4"	0.66	0.52	0.42	0.44
Triple, Clear 1/4"+ argon	0.63	0.49	0.39	0.42
Triple, Low-e4 1/4"	0.64	0.50	0.40	0.40
Triple, Low-e2 1/4"	0.62	0.48	0.39	0.41
Triple, Low-e1 1/4"	0.61	0.47	0.38	0.40
Triple, Low-e4 1/4"+ argon	0.60	0.46	0.37	0.39
Triple, Low-e2 1/4"+ argon	0.58	0.43	0.34	0.37
Triple, Low-e1 1/4" + argon	0.57	0.42	0.34	0.36
Triple, Clear 1/2"	0.61	0.46	0.37	0.40
Triple, Clear 1/2"+ argon	0.59	0.45	0.36	0.38
Triple, Low-e4 1/2"	0.58	0.43	0.35	0.37

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**TABLE 10-6B<sup>1</sup>**  
**Group R Occupancy: DEFAULT U-FACTORS FOR VERTICAL GLAZING**  
**FOR SMALL BUSINESSES**

DESCRIPTION <sup>2,3,4,5,6</sup>	FRAME TYPE <sup>7,8</sup>			
	ALUMINUM	ALUM. THERMAL BREAK <sup>9</sup>	WOOD/VINYL	ALUM. CLAD WOOD/REINFORCED VINYL <sup>10</sup>
Triple, Low-e2 1/2"	0.55	0.41	0.32	0.35
Triple, Low-e1 1/2"	0.54	0.39	0.31	0.33
Triple, Low-e4 1/2"+ argon	0.55	0.41	0.32	0.35
Triple, Low-e2 1/2"+ argon	0.52	0.38	0.30	0.32
Triple, Low-e1 1/2"+ argon	0.51	0.37	0.29	0.31

Footnotes to Table 10-6B

- 1 Subtract 0.02 from the listed default U-factor for non-aluminum spacer. Acceptable spacer materials may include but is not limited to fiberglass, wood and butyl or other material with an equivalent thermal performance.
- 2 1/4"= a minimum dead air space of 0.25 inches between the panes of glass.  
 3/8"= a minimum dead air space of 0.375 inches between the panes of glass.  
 1/2"= a minimum dead air space of 0.5 inches between the panes of glass.  
 Product with air spaces different than those listed above shall use the value for the next smaller air space; i.e. 3/4 inch= 1/2 inch U-factors, 7/16 inch= 3/8 inch U-factors, 5/16 inch= 1/4 inch U-factors.
- 3 Low-e4 (emissivity) shall be 0.4 or less.  
 Low-e2 (emissivity) shall be 0.2 or less.  
 Low-e1 (emissivity) shall be 0.1 or less.
- 4 U-factors listed for argon shall consist of sealed, gas-filled insulated units for argon, CO2, SF6, and argon/SF6 mixtures. The following conversion factor shall apply to Krypton gas-filled units: 1/4" or greater with krypton is equivalent to 1/2" argon.
- 5 Dividers placed between glazing: The U-factor listed shall be used where the divider has a minimum gap of 1/8 inch between the divider and lite of each inside glass surface. Add 0.03 to the listed U-factor for True Divided Lite windows.
- 6 "Glass block" assemblies may use a U-factor of 0.51.
- 7 Insulated fiberglass framed products shall use wood/vinyl U-factors.
- 8 Subtract 0.02 from the listed default values for solariums.
- 9 Aluminum Thermal Break= An aluminum thermal break framed window shall incorporate the following minimum design characteristics:
  - a) The thermal conductivity of the thermal break material shall be not more than 3.6 Btu-in/h/ft<sup>2</sup>/F°;
  - b) The thermal break material must produce a gap in the frame material of not less than 0.210 inches; and,
  - c) All metal framing members of the products exposed to interior and exterior air shall incorporate a thermal break meeting the criteria in a) and b) above.
- 10 Aluminum clad wood windows shall use the U-factors listed for Aluminum Clad Wood/Reinforced Vinyl windows. Vinyl clad wood window shall use the U-factors listed for Wood/Vinyl windows. Any vinyl frame window with metal reinforcement in more than one rail shall use the U-factors listed for Aluminum Clad Wood/Reinforced Vinyl window.

**((TABLE 10-6C**  
**DEFAULT U FACTORS FOR WOOD AND STEEL DOORS**

Nominal Door Thickness, Inches	Description	No Storm Door	Wood Storm Door	Metal Storm Door <sup>d</sup>
<b>Wood Doors<sup>b</sup></b>				
1-3/8	Panel door with 7/16 inch panels <sup>a</sup>	0.57	0.33	0.37
1-3/8	Hollow core flush door	0.47	0.30	0.32

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((TABLE 10-6C  
**DEFAULT U FACTORS FOR WOOD AND STEEL DOORS**

Nominal Door Thickness, Inches	Description	No Storm Door	Wood Storm Door <sup>a</sup>	Metal Storm Door <sup>d</sup>
1-3/8	Solid core flush door	0.39	0.26	0.28
1-3/4	Panel door with 7/16 inch panels <sup>e</sup>	0.57	0.33	0.36
1-3/4	Hollow core flush door	0.46	0.29	0.32
1-3/4	Panel door with 3/4 inch panels <sup>e</sup>	0.40	0.27	0.29
1-3/4	Panel door with 1-1/8 inch panels <sup>e</sup>	0.39	0.26	0.28
1-3/4	Solid core flush door	0.33	0.28	0.25
2-1/4	Solid core flush door	0.27	0.20	0.21
<b>Steel Doors<sup>b</sup></b>				
1-3/4	Fiberglass or mineral wool core w/ steel stiffeners, no thermal break <sup>f</sup>	0.60	—	—
1-3/4	Paper honeycomb core without thermal break <sup>f</sup>	0.56	—	—
1-3/4	Solid urethane foam core without thermal break <sup>a</sup>	0.40	—	—
1-3/4	Solid fire rated mineral fiberboard core without thermal break <sup>f</sup>	0.38	—	—
1-3/4	Polystyrene core without thermal break (18 gage commercial steel) <sup>f</sup>	0.35	—	—
1-3/4	Polyurethane core without thermal break (18 gage commercial steel) <sup>f</sup>	0.29	—	—
1-3/4	Polyurethane core without thermal break (24 gage commercial steel) <sup>f</sup>	0.29	—	—
1-3/4	Polyurethane core w/ thermal break & wood perimeter (24 gage commercial steel) <sup>f</sup>	0.20	—	—
1-3/4	Solid urethane foam core with thermal break	0.19	0.16	0.17

Note: All U factors for exterior doors in this table are for doors with no glazing, except for the storm doors which are in addition to the main exterior door. Any glazing area in exterior doors should be included with the appropriate glass type and analyzed. Interpolation and moderate extrapolation are permitted for door thicknesses other than those specified.

- a Values are based on a nominal 32 by 80 in. door size with no glazing.
- b Outside air conditions: 15 mph wind speed, 0°F air temperature; inside air conditions: natural convection, 70°F air temperature.
- c Values for wood storm door are for approximately 50 percent glass area.
- d Values for metal storm door are for any percent glass area.
- e 55 percent panel area.
- f ASTM C 236 hotbox data on a nominal 3 by 7 ft door size with no glazing.

The U factors in Table 6C are for exterior wood and steel doors. The values given for wood doors were calculated, and those for steel doors were taken from hotbox tests (Sabine et al. 1975; Yellot 1965) or from manufacturer's test reports. An outdoor surface conductance of 6.0 Btu/h·ft<sup>2</sup>·°F was used, and the indoor surface conductance was taken as 1.4 Btu/h·ft<sup>2</sup>·°F for vertical surfaces with horizontal heat flow. All values given are for exterior doors without glazing. If an exterior door contains glazing, refer to Table 10-6D.)



**TABLE 10-6C**  
**Group R Occupancy: DEFAULT U-FACTORS FOR DOORS**

<b>Door Type</b>	<b>No Glazing</b>	<b>Single Glazing</b>	<b>Double Glazing with 1/4 in. Airspace</b>	<b>Double Glazing with 1/2 in. Airspace</b>	<b>Double Glazing with e=0.10, 1/2 in. Argon</b>
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**SWINGING DOORS (Rough opening - 38 in. x 82 in.)**

*Slab Doors*

<b>Wood slab in wood frame<sup>a</sup></b>	<b>0.46</b>				
<u>6% glazing (22 in. x 8 in. lite)</u>	=	<u>0.48</u>	<u>0.47</u>	<u>0.46</u>	<u>0.44</u>
<u>25% glazing (22 in. x 36 in. lite)</u>	=	<u>0.58</u>	<u>0.48</u>	<u>0.46</u>	<u>0.42</u>
<u>45% glazing (22 in. x 64 in. lite)</u>	=	<u>0.69</u>	<u>0.49</u>	<u>0.46</u>	<u>0.39</u>
<u>More than 50% glazing</u>		<u>Use Table 10-6A</u>			

<b>Insulated steel slab with wood edge in wood frame<sup>a</sup></b>	<b>0.16</b>				
<u>6% glazing (22 in. x 8 in. lite)</u>	=	<u>0.21</u>	<u>0.20</u>	<u>0.19</u>	<u>0.18</u>
<u>25% glazing (22 in. x 36 in. lite)</u>	=	<u>0.39</u>	<u>0.28</u>	<u>0.26</u>	<u>0.23</u>
<u>45% glazing (22 in. x 64 in. lite)</u>	=	<u>0.58</u>	<u>0.38</u>	<u>0.35</u>	<u>0.26</u>
<u>More than 50% glazing</u>		<u>Use Table 10-6A</u>			

<b>Foam insulated steel slab with metal edge in steel frame<sup>b</sup></b>	<b>0.37</b>				
<u>6% glazing (22 in. x 8 in. lite)</u>	=	<u>0.44</u>	<u>0.42</u>	<u>0.41</u>	<u>0.39</u>
<u>25% glazing (22 in. x 36 in. lite)</u>	=	<u>0.55</u>	<u>0.50</u>	<u>0.48</u>	<u>0.44</u>
<u>45% glazing (22 in. x 64 in. lite)</u>	=	<u>0.71</u>	<u>0.59</u>	<u>0.56</u>	<u>0.48</u>
<u>More than 50% glazing</u>		<u>Use Table 10-6A</u>			

<b>Cardboard honeycomb slab with metal edge in steel frame<sup>b</sup></b>	<b>0.61</b>				
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*Style and Rail Doors*

<b>Sliding glass doors/French doors</b>	<u>Use Table 10-6A</u>				
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*Site-Assembled Style and Rail Doors*

<u>Aluminum in aluminum frame</u>	=	<u>1.32</u>	<u>0.99</u>	<u>0.93</u>	<u>0.79</u>
<u>Aluminum in aluminum frame with thermal break</u>	=	<u>1.13</u>	<u>0.80</u>	<u>0.74</u>	<u>0.63</u>

**REVOLVING DOORS (Rough opening - 82 in. x 84 in.)**

<b>Aluminum in aluminum frame</b>					
<b>Open</b>	=	<u>1.32</u>	=	=	=
<b>Closed</b>	=	<u>0.65</u>	=	=	=

**SECTIONAL OVERHEAD DOORS (Nominal - 10 ft x 10 ft)**

<u>Uninsulated steel (nominal U = 1.15)<sup>c</sup></u>	<u>1.15</u>	=	=	=	=
<u>Insulated steel (nominal U = 0.11)<sup>c</sup></u>	<u>0.24</u>	=	=	=	=
<u>Insulated steel with thermal break (nominal U = 0.08)<sup>c</sup></u>	<u>0.13</u>	=	=	=	=

- a. Thermally broken sill (add 0.03 for nonthermally broken sill)
- b. Nonthermally broken sill
- c. Nominal U-factors are through the center of the insulated panel before consideration of thermal bridges around the edges of the door sections and due to the frame.

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**TABLE 10-6D**  
**((DEFAULT U-FACTORS FOR GLAZED DOORS<sup>2</sup>))**  
**Group R Occupancy: DEFAULT U-FACTORS FOR GLAZED DOORS**  
**See Table 10-6C**

Description <sup>2,3,4,5</sup>	((Door Material			
	Insulated <sup>6</sup>		Wood <sup>7</sup>	
	Full-Lite <sup>4,9</sup>	Half-Lite <sup>10,11</sup>	Full-Lite <sup>3</sup>	Half-Lite <sup>10</sup>
Double, Clear 1/4"	0.39	0.31	0.47	0.42
Double, Clear 1/4" + argon	0.37	0.30	0.45	0.41
Double, Low-e4 1/4"	0.36	0.30	0.44	0.41
Double, Low-e2 1/4"	0.35	0.29	0.43	0.40
Double, Low-e1 1/4"	0.24	0.28	0.41	0.39
Double, Low-e4 1/4" + argon	0.33	0.28	0.41	0.39
Double, Low-e2 1/4" + argon	0.31	0.26	0.39	0.38
Double, Low-e1 1/4" + argon	0.31	0.26	0.38	0.37
Double, Clear 3/8"	0.37	0.30	0.45	0.41
Double, Clear 3/8" + argon	0.36	0.29	0.44	0.41
Double, Low-e4 3/8"	0.34	0.28	0.42	0.40
Double, Low-e2 3/8"	0.33	0.28	0.41	0.39
Double, Low-e1 3/8"	0.21	0.26	0.38	0.37
Double, Low-e4 3/8" + argon	0.32	0.27	0.40	0.38
Double, Low-e2 3/8" + argon	0.29	0.25	0.37	0.37
Double, Low-e1 3/8" + argon	0.29	0.25	0.36	0.36
Double, Clear 1/2"	0.36	0.29	0.44	0.41
Double, Clear 1/2" + argon	0.34	0.28	0.42	0.40
Double, Low-e4 1/2"	0.32	0.27	0.40	0.38
Double, Low-e2 1/2"	0.30	0.26	0.38	0.37
Double, Low-e1 1/2"	0.29	0.25	0.36	0.36
Double, Low-e4 1/2" + argon	0.30	0.26	0.38	0.37
Double, Low-e2 1/2" + argon	0.28	0.25	0.36	0.36
Double, Low-e1 1/2" + argon	0.28	0.24	0.34	0.35
Triple, Clear 1/4"	0.31	0.26	0.39	0.38
Triple, Clear 1/4" + argon	0.29	0.25	0.37	0.37
Triple, Low-e4 1/4"	0.30	0.26	0.38	0.37
Triple, Low-e2 1/4"	0.29	0.25	0.37	0.36
Triple, Low-e4 1/4" + argon	0.27	0.24	0.35	0.35
Triple, Low-e2 1/4" + argon	0.26	0.24	0.34	0.35

**Footnotes to Table 10-6D**

- 1 Subtract 0.02 from the listed default U factor for insulated spacers. Insulated spacer material includes fiberglass, wood and butyl or other material with an equivalent Thermal performance.
- 2 1/4" = a minimum dead air space of 0.25 inches between the panes of glass.  
 3/8" = a minimum dead air space of 0.375 inches between the panes of glass.  
 1/2" = a minimum dead air space of 0.5 inches between the panes of glass.  
 Products with air spaces different than those listed above shall use the value for next smaller air space; i.e. 3/4 inch = 1/2 inch U factors, 7/16 inch = 3/8 inch U factors, 5/16 inch = 1/4 inch U factors.
- 3 Low-e4 (emissivity) shall be 0.4 or less.  
 Low-e2 (emissivity) shall be 0.2 or less.  
 Low-e1 (emissivity) shall be 0.1 or less.

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**Footnotes to Table 10-6D**

- 4 U-factors listed for argon shall consist of sealed, gas filled, insulated units for argon, CO<sub>2</sub>, SF<sub>6</sub> and argon/SF<sub>6</sub> mixtures:  
The following conversion factor shall apply to Krypton gas filled units:  
1/4 inch or greater airspace of Krypton gas fill= 1/2 inch air space Argon gas fill.
- 5 Dividers placed between glazing: The U-factors listed shall be used where the divider has a minimum gap of 1/8 inch between the divider and lite of each inside glass surface. Add 0.03 to the listed U-factor for True Divided Lite windows.
- 6 Insulated= Any urethane insulated foam core door with a thermal break. Thermal Break= A thermal break door shall incorporate the following design characteristics:
  - a) The thermal conductivity of the thermal break material shall be not more than 3.6 Btu-in/h-ft<sup>2</sup>-°F; and
  - b) The thermal break material shall not be less than 0.210 inches.
- 7 Wood= any wood door.
- 8 Full Lite= A door that consists of more than 50% glazing.
- 9 Add 0.05 to the listed U-factor for Full Lite values if the insulated door does not have a thermal break.
- 10 Half Lite= A door that consists of 50% or less glazing.
- 11 Add 0.06 to the listed U-factor for Half Lite values if the insulated door does not have a thermal break.))

**TABLE 10-6E**  
**Group R Occupancy: DEFAULT U-FACTORS FOR OVERHEAD GLAZING**

Glazing Type	Frame Type			
	Aluminum without Thermal Break	Aluminum with Thermal Break	Reinforced Vinyl/ Aluminum-Clad Wood or Vinyl	Wood or Vinyl-Clad Wood/ Vinyl without Reinforcing
Single Glazing glass	U-1.58	U-1.51	U-1.40	U-1.18
acrylic/polycarb	U-1.52	U-1.45	U-1.34	U-1.11
Double Glazing air	U-1.05	U-0.89	U-0.84	U-0.67
argon	U-1.02	U-0.86	U-0.80	U-0.64
Double Glazing, e=0.20 air	U-0.96	U-0.80	U-0.75	U-0.59
argon	U-0.91	U-0.75	U-0.70	U-0.54
Double Glazing, e=0.10 air	U-0.94	U-0.79	U-0.74	U-0.58
argon	U-0.89	U-0.73	U-0.68	U-0.52
Double Glazing, e=0.05 air	U-0.93	U-0.78	U-0.73	U-0.56
argon	U-0.87	U-0.71	U-0.66	U-0.50
Triple Glazing air	U-0.90	U-0.70	U-0.67	U-0.51
argon	U-0.87	U-0.69	U-0.64	U-0.48
Triple Glazing, e=0.20 air	U-0.86	U-0.68	U-0.63	U-0.47
argon	U-0.82	U-0.63	U-0.59	U-0.43
Triple Glazing, e=0.20 on 2 surfaces				

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**TABLE 10-6E**  
**Group R Occupancy; DEFAULT U-FACTORS FOR OVERHEAD GLAZING**

Glazing Type	Frame Type			
	Aluminum without Thermal Break	Aluminum with Thermal Break	Reinforced Vinyl/ Aluminum-Clad Wood or Vinyl	Wood or Vinyl-Clad Wood/ Vinyl without Reinforcing
air	U-0.82	U-0.64	U-0.60	U-0.44
argon	U-0.79	U-0.60	U-0.56	U-0.40
Triple Glazing, e=0.10 on 2 surfaces				
air	U-0.81	U-0.62	U-0.58	U-0.42
argon	U-0.77	U-0.58	U-0.54	U-0.38
Quadruple Glazing, e=0.10 on 2 surfaces				
air	U-0.78	U-0.59	U-0.55	U-0.39
argon	U-0.74	U-0.56	U-0.52	U-0.36
krypton	U-0.70	U-0.52	U-0.48	U-0.32

1. U-factors are applicable to both glass and plastic, flat and domed units, all spacers and gaps.
2. Emissivities shall be less than or equal to the value specified.
3. Gap fill shall be assumed to be air unless there is a minimum of 90% argon or krypton.
4. Aluminum frame with thermal break is as defined in footnote 9 to Table 10-6B.

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-1007 Section 1007 Ceilings.**

1007.1 General: Table 10-7 lists heat-loss coefficients for the opaque portion of exterior ceilings below vented attics, vaulted ceilings, and roof decks in units of ((Btu/hr•°F per square foot)) **Btu/h•ft<sup>2</sup>•°F** of ceiling.

They are derived from procedures listed in Standard ((RS-1)) **RS-27**, listed in Chapter 7. Ceiling U-factors are modified for the buffering effect of the attic, assuming an indoor temperature of 65° F and an outdoor temperature of 45°F.

**Metal Framed Ceilings:** The nominal R-values in Table 10-5A - **EFFECTIVE R-VALUES FOR METAL FRAMING AND CAVITY ONLY** may be used for purposes of calculating metal framed ceiling section U-factors in lieu of the ASHRAE zone calculation method as provided in Chapter 24 of Standard RS-27.

1007.2 Component Description: The ((three)) **four** types of ceilings are characterized as follows:

**Ceilings Below a Vented Attic:** Attic insulation is assumed to be blown-in, loose-fill fiberglass with a K-value of 2.6 hr•ft<sup>2</sup>•°F/Btu per inch. Full bag count for specified R-value is assumed in all cases. Ceiling dimensions for flat ceiling calculations are forty-five by thirty feet, with a gabled roof having a 4/12 pitch. The attic is assumed to vent naturally at the rate of three air changes per hour through soffit and ridge vents. A void fraction of 0.002 is assumed for all attics with insulation baffles. Standard-framed, un baffled attics assume a void fraction of 0.008.

Attic framing is either standard or advanced. Standard framing assumes tapering of insulation depth around the perimeter with resultant decrease in thermal resistance. An

increased R-value is assumed in the center of the ceiling due to the effect of piling leftover insulation. Advanced framing assumes full and even depth of insulation extending to the outside edge of exterior walls. Advanced framing does not change from the default value.

U-factors for flat ceilings below vented attics with standard framing may be modified with the following table:

Roof Pitch	U-Factor for Standard Framing	
	R-30	R-38
4/12	.036	.031
5/12	.035	.030
6/12	.034	.029
7/12	.034	.029
8/12	.034	.028
9/12	.034	.028
10/12	.033	.028
11/12	.033	.027
12/12	.033	.027

Vented scissors truss attics assume a ceiling pitch of 2/12 with a roof pitch of either 4/12 or 5/12. Un baffled standard framed scissors truss attics are assumed to have a void fraction of 0.016.

**Vaulted Ceilings:** Insulation is assumed to be fiberglass batts installed in roof joist cavities. In the vented case, at least 1.5-inches between the top of the batts and the underside of the roof sheathing is left open for ventilation in each cavity. A ventilation rate of ((three)) **3.0** air changes per hour is assumed. In the unvented or dense pack case, the ceiling cav-

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ity is assumed to be fully packed with insulation, leaving no space for ventilation.

Roof Decks: Rigid insulation is applied to the top of roof decking with no space left for ventilation. Roofing materials are attached directly on top of the insulation. Framing members are often left exposed on the interior side.

Metal Truss Framing: Overall system tested values for the roof/ceiling  $U_o$  for metal framed truss assemblies from approved laboratories shall be used, when such data is acceptable to the building official.

Alternatively, the  $U_o$  for roof/ceiling assemblies using metal truss framing may be obtained from Tables 10-7A, 10-7B, 10-7C, 10-7D and 10-7E.

**TABLE 10-7  
DEFAULT U-FACTORS FOR CEILINGS**

**Ceilings Below Vented Attics**

	Standard Frame	Advanced Frame
<b>Flat Ceiling</b>	<b>Baffled</b>	
R-19	0.049	0.047
R-30	0.036	0.032
R-38	0.031	0.026
R-49	0.027	0.020
R-60	0.025	0.017
<b>Scissors Truss</b>		
R-30 (4/12 roof pitch)	0.043	0.031
R-38 (4/12 roof pitch)	0.040	0.025
R-49 (4/12 roof pitch)	0.038	0.020
R-30 (5/12 roof pitch)	0.039	0.032
R-38 (5/12 roof pitch)	0.035	0.026
R-49 (5/12 roof pitch)	0.032	0.020
<b>Vaulted Ceilings</b>		
	<b>16" O.C.</b>	<b>24" O.C.</b>
<b>Vented</b>		
R-19 2x10 joist	0.049	0.048
R-30 2x12 joist	0.034	0.033
R-38 2x14 joist	0.027	0.027
<b>Unvented</b>		
R-30 2x10 joist	0.034	0.033
R-38 2x12 joist	0.029	0.027
R-21 + R-21 2x12 joist	0.026	0.025
<b>Roof Deck</b>		
	<b>4x Beams, 48" O.C.</b>	
R-12.5 2" Rigid insulation	0.064	
R-21.9 3.5" Rigid insulation	0.040	
R-37.5 6" Rigid insulation	0.025	
R-50 8" Rigid insulation	0.019	

Cavity R-value	Truss Span (ft)												
	12	14	16	18	20	22	24	26	28	30	32	34	36
19	0.1075	0.0991	0.0928	0.0878	0.0839	0.0807	0.0780	0.0757	0.0737	0.0720	0.0706	0.0693	0.0681
30	0.0907	0.0823	0.0760	0.0710	0.0671	0.0638	0.0612	0.0589	0.0569	0.0552	0.0538	0.0525	0.0513
38	0.0844	0.0759	0.0696	0.0647	0.0607	0.0575	0.0548	0.0525	0.0506	0.0489	0.0474	0.0461	0.0449
49	0.0789	0.0704	0.0641	0.0592	0.0552	0.0520	0.0493	0.0470	0.0451	0.0434	0.0419	0.0406	0.0395

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**Table 10-7B**  
Steel Truss<sup>1</sup> Framed Ceiling U<sub>0</sub> with R-3 Sheathing<sup>2</sup>

Cavity R-value	Truss Span (ft)												
	12	14	16	18	20	22	24	26	28	30	32	34	36
19	0.0809	0.0763	0.0728	0.0701	0.0679	0.0661	0.0647	0.0634	0.0623	0.0614	0.0606	0.0599	0.0592
30	0.0641	0.0595	0.0560	0.0533	0.0511	0.0493	0.0478	0.0466	0.0455	0.0446	0.0438	0.0431	0.0424
38	0.0577	0.0531	0.0496	0.0469	0.0447	0.0430	0.0415	0.0402	0.0392	0.0382	0.0374	0.0367	0.0361
49	0.0523	0.0476	0.0441	0.0414	0.0393	0.0375	0.0360	0.0348	0.0337	0.0328	0.0319	0.0312	0.0306

**Table 10-7C**  
Steel Truss<sup>1</sup> Framed Ceiling U<sub>0</sub> with R-5 Sheathing<sup>2</sup>

Cavity R-value	Truss Span (ft)												
	12	14	16	18	20	22	24	26	28	30	32	34	36
19	0.0732	0.0697	0.0670	0.0649	0.0633	0.0619	0.0608	0.0598	0.0590	0.0583	0.0577	0.0571	0.0567
30	0.0564	0.0529	0.0502	0.0481	0.0465	0.0451	0.0440	0.0430	0.0422	0.0415	0.0409	0.0403	0.0399
38	0.0501	0.0465	0.0438	0.0418	0.0401	0.0388	0.0376	0.0367	0.0359	0.0351	0.0345	0.0340	0.0335
49	0.0446	0.0410	0.0384	0.0363	0.0346	0.0333	0.0322	0.0312	0.0304	0.0297	0.0291	0.0285	0.0280

**Table 10-7D**  
Steel Truss<sup>1</sup> Framed Ceiling U<sub>0</sub> with R-10 Sheathing<sup>2</sup>

Cavity R-value	Truss Span (ft)												
	12	14	16	18	20	22	24	26	28	30	32	34	36
19	0.0626	0.0606	0.0590	0.0578	0.0569	0.0561	0.0555	0.0549	0.0545	0.0541	0.0537	0.0534	0.0531
30	0.0458	0.0437	0.0422	0.0410	0.0401	0.0393	0.0387	0.0381	0.0377	0.0373	0.0369	0.0366	0.0363
38	0.0394	0.0374	0.0359	0.0347	0.0337	0.0330	0.0323	0.0318	0.0313	0.0309	0.0305	0.0302	0.0299
49	0.0339	0.0319	0.0304	0.0292	0.0283	0.0275	0.0268	0.0263	0.0258	0.0254	0.0251	0.0247	0.0245

**Table 10-7E**  
Steel Truss<sup>1</sup> Framed Ceiling U<sub>0</sub> with R-15 Sheathing<sup>2</sup>

Cavity R-value	Truss Span (ft)												
	12	14	16	18	20	22	24	26	28	30	32	34	36
19	0.0561	0.0550	0.0541	0.0535	0.0530	0.0526	0.0522	0.0519	0.0517	0.0515	0.0513	0.0511	0.0509
30	0.0393	0.0382	0.0373	0.0367	0.0362	0.0358	0.0354	0.0351	0.0349	0.0347	0.0345	0.0343	0.0341
38	0.0329	0.0318	0.0310	0.0303	0.0298	0.0294	0.0291	0.0288	0.0285	0.0283	0.0281	0.0279	0.0278
49	0.0274	0.0263	0.0255	0.0249	0.0244	0.0239	0.0236	0.0233	0.0230	0.0228	0.0226	0.0225	0.0223

- 1 - Assembly values based on 24 inch on center truss spacing; 11 Truss member connections penetrating insulation (4 at the eaves, 7 in the interior space); 1/2 inch drywall ceiling; all truss members are 2x4 "C" channels with a solid web.
- 2 - Ceiling sheathing installed between bottom chord and drywall.

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-1008 Section 1008 Air infiltration.**

1008.1 General: Tables 10-8 and ~~((10-9))~~ 10-8A list effective air change rates and heat capacities for heat loss due to infiltration for Group R occupancy.

Estimated seasonal average infiltration rate in air changes per hour (ACH) is given for standard air-leakage control (see section 502.4 of this code for air leakage requirements for Group R occupancy). The effective air-change rate shall be used in calculations for compliance under either the Component Performance or Systems Analysis approaches.

Heat loss due to infiltration shall be computed using the following equation:

$$Q_{\text{infil}} = \text{ACH}_{\text{eff}} * \text{HCP}$$

where:  $Q_{\text{infil}}$  = Heat loss due to air infiltration

$\text{ACH}_{\text{eff}}$  = the effective air infiltration rate in Table 10-8

HCP = the Heat Capacity Density Product for the appropriate elevation or climate zone as given below.

**TABLE 10-8  
ASSUMED EFFECTIVE AIR CHANGES  
PER HOUR**

Air-Leakage Control Package	Air Changes per Hour	
	Natural	Effective
Standard	0.35	0.35

**TABLE ((10-9)) 10-8A  
DEFAULT HEAT CAPACITY/DENSITY PRODUCT FOR AIR**

Zone	Average Elevation	Heat Capacity/Density
1	Mean Sea Level	0.0180 Btu/h•°F
2	2000	0.0168 Btu/h•°F
3	3000	0.0162 Btu/h•°F

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-1009 Section 1009 Mass.**

1009.1 General: ((Table)) Tables 10-9 and 10-10 list((s)) default ((mass-values)) mass values for ((residential)) concrete masonry construction ((types)). ((All)) Calculations are based on standard ASHRAE values for heat-storage capacity as listed in Standard ((RS-1)) RS-27, Chapter 24.

Thermal capacity of furniture is ignored, as is heat storage beyond the first four inches of mass thickness. All mass is assumed to be in direct contact with the conditioned space. Concrete separated from the heated volume by other materials must multiply the listed concrete mass value by the result of the following formula:

$$\text{Ln}(\text{R-value}) \times (-.221) + 0.5$$

Where:

Ln= Natural log

R-value= R-value of material covering concrete

Note: All default values for covered concrete slabs have been adjusted according to this procedure.

1009.2 Mass Description: Mass is divided into two types: Structural and additional.

Structural Mass: Includes heat-storage capacity of all standard building components of a typical residential structure, including floors, ceilings, and interior and exterior walls in Btu/ft<sup>2</sup>•°F of floor area. It also assumes exterior wall, interior wall and ceiling surface area approximately equals three times the floor area.

Additional Mass: Includes any additional building material not part of the normal structure, which is added specifically to increase the building's thermal-storage capability. This category includes masonry fireplaces, water or trombe walls, and extra layers of sheetrock. Coefficients are in Btu/ft<sup>2</sup>•°F of surface area of material exposed to conditioned space. The coefficient for water is Btu/°F•gallon.

1009.3 Component Description: Light frame assumes one inch thick wood flooring with five-eighths inch sheetrock on ceilings and interior walls, and walls consisting of either five-eighths inch sheetrock or solid logs. Slab assumes a four-inch concrete slab on or below grade, with five-eighths inch sheetrock on exterior and interior walls and ceiling, and with separate values for interior or exterior wall insulation. Adjustments for slab covering is based on R-value of material. Additional mass values are based on the density multiplied by the specific heat of the material adjusted for listed thickness.

**TABLE 10-9  
HEAT CAPACITY**

	<u>Partial Grout</u>	<u>Solid Grout</u>
<u>8" CMU</u>	<u>9.65</u>	<u>15.0</u>
<u>12" CMU</u>	<u>14.5</u>	<u>23.6</u>
<u>8" Brick</u>	<u>10.9</u>	<u>16.4</u>
<u>6" Concrete</u>	<u>NA</u>	<u>14.4</u>

**TABLE 10-10  
DEFAULT MASS VALUES**

**Structural Mass M-value** **Btu/ft<sup>2</sup>•°F floor area**

**Light Frame:**

Joisted/post & beam floor, sheetrock

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Structural Mass M-value	Btu/ft <sup>2</sup> •°F floor area
walls and ceilings	3.0
Joisted/post & beam floor, log walls, sheetrock ceilings	4.0
<b>Slab With Interior Wall Insulation:</b>	
Slab, no covering or tile, sheetrock walls and ceilings	10.0
Slab, hardwood floor covering, sheetrock walls and ceilings	7.0
Slab, carpet and pad, sheetrock walls and ceilings	5.0
<b>Slab With Exterior Wall Insulation:</b>	
Slab, no covering or tile, sheetrock walls and ceilings	12.0
Slab, hardwood floor covering, sheetrock walls and ceilings	9.0
Slab, carpet and pad, sheetrock walls and ceilings	7.0
<b>Additional Mass M-Value:</b>	
	Btu/ft <sup>2</sup> •°F surface area
Gypsum wallboard, 1/2 inch thickness	0.54
Gypsum wallboard, 5/8 inch thickness	0.68
Hardwood floor	1.40
Concrete/Brick, 4 inch-thickness	10.30
Concrete/Brick, 6 inch-thickness	15.40
	Btu/°F•gallon
Water, 1 gallon	8.0

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-1132 Alterations and repairs.** Alterations and repairs to buildings or portions thereof originally constructed subject to the requirements of this Code shall conform to the provisions of this Code without the use of the exception in Section 1130. Other alterations and repairs may be made to existing buildings and moved buildings without making the entire building comply with all of the requirements of this Code for new buildings, provided the following requirements are met:

1132.1 Building Envelope: Alterations or repairs shall comply with nominal R-values and glazing requirements in Table 13-1 or 13-2.

- EXCEPTIONS:
- Storm windows installed over existing glazing.
  - Glass replaced in existing sash and frame provided that glazing is of equal or lower U-factor.
  - For solar heat gain coefficient compliance, glazing with a solar heat gain coefficient equal to or lower than that of the other existing glazing.
  - Existing roof/ceiling, wall or floor cavities exposed during construction provided that these cavities are insulated to full depth with insulation having a minimum nominal value of R-3.0 per inch installed per Sections 1311 and 1313.
  - Existing walls and floors without framing cavities, provided that any new cavities added to existing walls and floors comply with Exception 4.

- Existing roofs where the roof membrane is being replaced and
  - The roof sheathing or roof insulation is not exposed; or
  - If there is existing roof insulation below the deck. In no case shall the energy efficiency of the building be decreased.

1132.2 Building Mechanical Systems: Those parts of systems which are altered or replaced shall comply with Chapter 14 of this Code.

1132.3 Lighting and Motors: Tenant improvements, alterations or repairs where 60 percent or more of the fixtures in a use (as defined in Table 15-1) within a tenant space or in an entire floor (whichever is smaller) are new shall comply with Sections 1531 and 1532. Where less than 60 percent of the fixtures are new, the installed lighting wattage shall be maintained or reduced. Where 60 percent or more of the lighting fixtures in a suspended ceiling are new, and the existing insulation is on the suspended ceiling, the roof/ceiling assembly shall be insulated according to the provisions of Chapter 13 Section 1311.2.

Where new wiring is being installed to serve added fixtures and/or fixtures are being relocated to a new circuit, controls shall comply with Sections 1513.1 through 1513.5. Where a new lighting panel (or a moved lighting panel) with all new raceway and conductor wiring from the panel to the



fixtures is being installed, controls shall comply with Section 1513.6.

Those motors which are altered or replaced shall comply with Section 1511.

## CHAPTER 12 DEFINITIONS

Note: For nonresidential definitions, see Chapter 2.

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

### WAC 51-11-1312 Glazing and doors.

1312.1 Standard Procedure for Determination of Glazing and Door U-Factors: U-Factors for glazing and doors shall be determined, certified and labeled in accordance with Standard RS-31 by a certified independent agency licensed by the National Fenestration Rating Council (NFRC). Compliance shall be based on the Residential or the Nonresidential Model Size. Product samples used for U-factor determinations shall be production line units or representative of units as purchased by the consumer or contractor. Unlabeled glazing and doors shall be assigned the default U-factor in ((Section 2006)) Table 10-6.

1312.2 Solar Heat Gain Coefficient and Shading Coefficient: Solar Heat Gain Coefficient (SHGC), shall be determined, certified and labelled in accordance with the National Fenestration Rating Council (NFRC) Standard by a certified, independent agency, licensed by the NFRC.

EXCEPTION: Shading coefficients (SC) shall be an acceptable alternate for compliance with solar heat gain coefficient requirements. Shading coefficients for glazing shall be taken from Chapter 29 of RS-27 or from the manufacturer's test data.

**AMENDATORY SECTION** (Amending WSR 93-21-052, filed 10/18/93, effective 4/1/94)

### WAC 51-11-1313 Moisture control.

1313.1 Vapor Retarders: Vapor retarders shall be installed on the warm side (in winter) of insulation as required by this section.

EXCEPTION: Vapor retarder installed with not more than 1/3 of the nominal R-value between it and the conditioned space.

1313.2 Roof/Ceiling Assemblies: Roof/ceiling assemblies where the ventilation space above the insulation is less than an average of twelve inches shall be provided with a vapor retarder. (For enclosed attics and enclosed rafter spaces see Section 1505.3 of the Washington State Building Code.) Roof/ceiling assemblies without a vented airspace, allowed only where neither the roof deck nor the roof structure are made of wood, shall provide a continuous vapor retarder with taped seams.

EXCEPTION: Vapor retarders need not be provided where all of the insulation is installed between the roof membrane and the structural roof deck.

1313.3 Walls: Walls separating conditioned space from unconditioned space shall be provided with a vapor retarder.

1313.4 Floors: Floors separating conditioned space from unconditioned space shall be provided with a vapor retarder.

1313.5 Crawl Spaces: A ground cover of six mil (0.006 inch thick) black polyethylene or approved equal shall be laid over the ground within crawl spaces. The ground cover shall be overlapped twelve inches minimum at the joints and shall extend to the foundation wall.

EXCEPTION: The ground cover may be omitted in crawl spaces if the crawl space has a concrete slab floor with a minimum thickness of three and one-half inches.

**AMENDATORY SECTION** (Amending WSR 93-21-052, filed 10/18/93, effective 4/1/94)

**WAC 51-11-1322 Opaque envelope.** Roof/ceilings, opaque exterior walls, opaque doors, floors over unconditioned space, below grade walls, slab on grade floors, and radiant floors enclosing conditioned spaces shall be insulated according to Section 1311 and Tables 13-1 or 13-2. Compliance with nominal R-values shall be demonstrated for the thermal resistance of the added insulation in framing cavities and/or insulated sheathing only. Nominal R-values shall not include the thermal transmittance of other building materials or air films.

For metal frame assemblies used in spaces with electric resistance space heat, compliance shall be demonstrated with the component U-factor for the overall assembly based on the assemblies in Chapter 10.

EXCEPTIONS: 1. Opaque smoke vents are not required to meet insulation requirements.  
2. The perimeter edge of an above grade floor slab which penetrates the exterior wall may be left uninsulated provided that the wall insulation is increased by R-2 above that required in Tables 13-1 and 13-2.

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-1323 Glazing.** Glazing shall comply with Section 1312 and Tables 13-1 or 13-2. All glazing shall be, at a minimum, double glazing.

EXCEPTIONS: 1. Vertical glazing located on the display side of the street level story of a retail occupancy provided the glazing ((is double-glazed with a minimum 1/2 inch airspace and))  
a. is double-glazed with a minimum 1/2 inch airspace and with a low-e coating having a maximum emittance of e-0.40 or has an area weighted U-factor of 0.60 or less. (When this exception is used, there are no SHGC requirements) and,  
b. does not exceed 75 percent of the gross exterior wall area of the ((street level story which does not exceed 20 feet in height-)) display side of the street level story. However, if the display side of the street level story exceeds 20 feet in height, then this exception may only be used for the first 20 feet of that story.  
When this exception is utilized, separate calculations shall be performed for these sections of the building envelope and these values shall not be averaged with any others for compliance purposes. The 75 percent area may be exceeded on the street level, if the addi-

tional glass area is provided from allowances from other areas of the building.

- Single glazing for ornamental, security, or architectural purposes shall be included in the percentage of the total glazing area, U-factor calculation and SHGC as allowed in the Tables 13-1 or 13-2. The maximum area allowed for the total of all single glazing is one percent of the gross exterior wall floor area.

1323.1 Area: The percentage of total glazing (vertical and overhead) area relative to the gross exterior wall area shall not be greater than the appropriate value from Tables 13-1 or 13-2 for the vertical glazing U-factor, overhead glazing U-factor and solar heat gain coefficient selected.

1323.2 U-Factor: The area-weighted average U-factor of vertical glazing shall not be greater than that specified in Tables 13-1 or 13-2 for the appropriate area and solar heat gain coefficient. The area-weighted average U-factor of overhead glazing shall not be greater than that specified in Tables 13-1 or 13-2 for the appropriate area and solar heat gain coefficient. U-factors for glazing shall be determined in accordance with Section 1312.

1323.3 Solar Heat Gain Coefficient: The area-weighted average solar heat gain coefficient of all glazing shall not be greater than that specified in Tables 13-1 or 13-2 for the appropriate area and U-factor.

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-1331 General.** Buildings or structures whose design heat loss rate ( $UA_p$ ) and solar heat gain coefficient rate ( $SHGC \cdot A_p$ ) are less than or equal to the target heat loss rate ( $UA_t$ ) and solar heat gain coefficient rate

( $SHGC \cdot A_t$ ) shall be considered in compliance with this section. The stated U-factor, F-factor or allowable area of any component assembly, listed in Tables 13-1 or 13-2, such as roof/ceiling, opaque wall, opaque door, glazing, floor over conditioned space, slab on grade floor, radiant floor or opaque floor may be increased and the U-factor or F-factor for other components decreased, provided that the total heat gain or loss for the entire building envelope does not exceed the total resulting from compliance to the U-factors, F-factors or allowable areas specified in this section.

**EXCEPTION:** For buildings or structures utilizing the other space heat type (including heat pumps and VAV) compliance path, for the gross opaque wall, opaque door and glazing (vertical and overhead) area only, compliance may also be shown using the ENVSTD diskette version 2.1 (~~or later of Standard RS-9~~) of ASHRAE/IESNA Standard 90.1-1989, or an approved alternative, with the following additional requirements:

- Only the Exterior Wall Requirements portion of the ENVSTD computer program may be used under this exception.
- Overhead glazing shall be added to vertical glazing, and shall be input as 1/4 north, 1/4 east, 1/4 south and 1/4 west facing.
- Lighting loads shall be determined according to Table 15-1.
- Equipment loads shall be determined from Table 3-1 of Standard RS-29.

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-1334 Solar heat gain coefficient rate calculations.** Solar heat gain coefficient shall comply with Section 1323.3. The target  $SHGCA_t$  and the proposed  $SHGCA_p$  shall be calculated using Equation 13-3 and 13-4 and the corresponding areas and SHGCs from Table 13-1 or 13-2.

**Equation 13-1:**  
**Target  $UA_{(t)}$**

$UA_t$	=	$U_{rat}A_{rat} + U_{ograt}A_{ograt} + U_{ort}A_{ort} + U_{ogort}A_{ogort} + U_{wt}A_{wt} + U_{vgt}A_{vgt} + U_{dt}A_{dt} + U_{ft}A_{ft} + F_{st}P_{st} + U_{bgwt}A_{bgwt}$
$UA_t$	=	The target combined specific heat transfer of the gross roof/ceiling assembly, exterior wall and floor area.
<b>Where:</b>		
$U_{rat}$	=	The thermal transmittance value for roofs over attics found in Table 13-1 or 13-2.
$U_{ograt}$	=	The thermal transmittance for overhead glazing found in Table 13-1 or 13-2 which corresponds to the proposed total glazing area as a percent of gross exterior wall area.
$U_{ort}$	=	The thermal transmittance value for other roofs found in Table 13-1 or 13-2.
$U_{ogort}$	=	The thermal transmittance for overhead glazing found in Table 13-1 or 13-2 which corresponds to the proposed total glazing area as a percent of gross exterior wall area.
$U_{wt}$	=	The thermal transmittance value for opaque walls found in Table 13-1 or 13-2.
$U_{vgt}$	=	The thermal transmittance value for vertical glazing found in Table 13-1 or 13-2 which corresponds to the proposed total glazing area as a percent of gross exterior wall area.
$U_{dt}$	=	The thermal transmittance value for opaque doors found in Table 13-1 or 13-2.
$U_{ft}$	=	The thermal transmittance value for floors over unconditioned space found in Table 13-1 or 13-2.
$F_{st}$	=	The F-factor for slab-on-grade and radiant slab floors found in Table 13-1 or 13-2.
$U_{bgwt}$	=	The thermal transmittance value for opaque walls found in Table 13-1 or 13-2.
$A_{dt}$	=	The proposed opaque door area, $A_d$ .

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$A_{ft}$	=	The proposed floor over unconditioned space area, $A_f$ .
$P_{st}$	=	The proposed lineal feet of slab-on-grade and radiant slab floor perimeter, $P_s$ .
$A_{bgwt}$	=	The proposed below grade wall area, $A_{bgw}$ .
<b>and;</b>		
if the total amount of glazing area as a percent of gross exterior wall area does not exceed the maximum allowed in Table 13-1 or 13-2:		
$A_{rat}$	=	The proposed roof over attic area, $A_{ra}$ .
$A_{ograt}$	=	The proposed overhead glazing area in roofs over attics, $A_{ograt}$ .
$A_{ort}$	=	The proposed other roof area, $A_{or}$ .
$A_{ogort}$	=	The proposed overhead glazing area in other roofs, $A_{ogort}$ .
$A_{wt}$	=	The proposed opaque above grade wall area, $A_w$ .
$A_{vgt}$	=	The proposed vertical glazing area, $A_{vg}$ .
or;		
if the total amount of glazing area as a percent of gross exterior wall area exceeds the maximum allowed in Table 13-1 or 13-2:		
$A_{rat}$	=	The greater of: the proposed roof over attic area, and the gross roof over attic area minus $A_{ograt}$ .
$A_{ograt}$	=	The lesser of: proposed overhead glazing area in roofs over attics, and the maximum allowed glazing area from Table 13-1 or 13-2.
$A_{ort}$	=	The greater of: the proposed other roof area, and the gross other roof area minus $A_{ogort}$ .
$A_{ogort}$	=	The lesser of: the proposed overhead glazing area in other roofs, and the maximum allowed glazing area from Table 13-1 or 13-2 minus $A_{ograt}$ .
$A_{wt}$	=	The greater of: proposed opaque above grade wall area, and the gross exterior above grade wall area minus $A_{dt}$ minus $A_{vgt}$ .
$A_{vgt}$	=	The lesser of: the proposed vertical glazing area, and the maximum allowed glazing area from Table 13-1 or 13-2 minus $A_{ograt}$ minus $A_{ogort}$ .

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**EQUATION 13-2**

**Proposed  $UA_p$**

$$UA_p = U_{ra}A_{ra} + U_{or}A_{or} + U_{og}A_{og} + U_wA_w + U_dA_d + U_{vg}A_{vg} + U_fA_f + F_sP_s + U_{bgw}A_{bgw}$$

Where:

- $UA_p$  = The combined proposed specific heat transfer of the gross exterior wall, floor and roof/ceiling assembly area.
- $U_{ra}$  = The thermal transmittance of the roof over attic area.
- $A_{ra}$  = Opaque roof over attic area.
- $U_{or}$  = The thermal transmittance of the other roof area.
- $A_{or}$  = Opaque other roof area.
- $U_{og}$  = The thermal transmittance for the overhead glazing
- $A_{og}$  = Overhead glazing area.
- $U_w$  = The thermal transmittance of the opaque wall area.
- $A_w$  = Opaque above grade wall area (not including opaque doors).
- $U_{vg}$  = The thermal transmittance of the vertical glazing area.

- $A_{vg}$  = Vertical glazing area.
- $U_d$  = The thermal transmittance value of the opaque door area.
- $A_d$  = Opaque door area.
- $U_f$  = The thermal transmittance of the floor over unconditioned space area.
- $A_f$  = Floor area over unconditioned space.
- $F_s$  = Slab-on-grade or radiant floor component F-factor.
- $P_s$  = Lineal feet of slab-on-grade or radiant floor perimeter.
- $U_{bgw}$  = The thermal transmittance value of the below grade wall area.
- $A_{bgw}$  = Below grade wall area as defined in Tables 13-1 or 13-2.

**NOTE:** Where more than one type of wall, window, roof/ceiling, door and skylight is used, the U and A terms for those items shall be expanded into sub-elements as:

$$U_{w1}A_{w1} + U_{w2}A_{w2} + U_{w3}A_{w3} + \dots \text{etc.}$$

**EQUATION 13-3**  
**Target SHGCA<sub>t</sub>**

$$SHGCA_t = SHGC_t (A_{ograt} + A_{ogort} + A_{vgl})$$

Where:

$SHGCA_t$  = The target combined specific heat gain of the target glazing area.

$SHGC_t$  = The solar heat gain coefficient for glazing found in Table 13-1 or 13-2 which corresponds to the proposed total glazing area as a percent of gross exterior wall area, and

$A_{ograt}$ ,  $A_{ogort}$ , and  $A_{vgl}$  are defined under Equation 13-1.

**EQUATION 13-4**

**Proposed SHGCA<sub>p</sub>**

$$SHGCA_p = SHGC_{og}A_{og} + SHGC_{vg}A_{vg}$$

Where:

$SHGCA_t$  = The combined proposed specific heat gain of the proposed glazing area.

$SHGC_{og}$  = The solar heat gain coefficient of the overhead glazing.

$A_{og}$  = The overhead glazing area.

$SHGC_{vg}$  = The solar heat gain coefficient of the vertical glazing.

$A_{vg}$  = The vertical glazing area.

**TABLE 13-1**  
**BUILDING ENVELOPE REQUIREMENTS FOR CLIMATE ZONE 1**  
**MINIMUM INSULATION R-VALUES OR**  
**MAXIMUM COMPONENT U-FACTORS FOR ZONE 1**

**Building Components**

Space Heat Type	Components					
	Roofs Over Attic	All Other Roofs	Opaque Walls <sup>1,2</sup>	Opaque Doors	Floor Over Uncond Space	Slab On Grade <sup>5</sup>
1. Electric resistance heat**	R-38 or U=0.031	R-30 or U=0.034	R-19 or U=0.062(°)	U=0.60	R-30 or U=0.029	R-10 or F=0.54
2. All others including Heat pumps and VAV	R-30 or U=0.036	R-21 or U=0.050	R-11 or U=0.14	U=0.60	R-19 or U=0.056	R-10 or F=0.54

\*\* Compliance with nominal prescriptive R-values requires wood framing.

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**MAXIMUM GLAZING AREAS AND U-FACTORS AND  
MAXIMUM GLAZING SOLAR HEAT GAIN COEFFICIENTS  
FOR ZONE 1**

**Glazing**

Maximum Glazing Area as % of Wall	0% to 15%		>15% to 20%		>20% to 30%		>30% to 40%					
	Maximum U-Factor		Max. SHGC <sup>4</sup>	Maximum U-Factor		Max. SHGC <sup>4</sup>	Maximum U-Factor		Max. SHGC <sup>4</sup>	Maximum U-Factor		Max. SHGC <sup>4</sup>
	VG	OG		VG	OG		VG	OG		VG	OG	
1. Electric resistance heat	0.40	0.80	1.0	0.40	0.80	1.0	PRESCRIPTIVE PATH NOT ALLOWED					
2. All others including Heat pumps and VAV	0.90	1.45	1.0	0.75	1.40	1.0	0.60	1.30	0.65	0.50	1.25	0.45

**Footnotes**

**1. Below Grade Walls:**

When complying by the prescriptive approach, Section 1322:

- a) walls insulated on the interior shall use opaque wall values,
- b) walls insulated on the exterior shall use a minimum of R-10 insulation,
- c) those portions of below grade walls and footings that are more than 10 feet below grade, and not included in the gross exterior wall area, may be left uninsulated.

When complying by the component performance approach, Section 1331:

- a) walls insulated on the interior shall use the opaque wall values when determining  $U_{bgwi}$ ,
- b) walls insulated on the exterior shall use a target U-factor of  $U=0.070$  for  $U_{bgwi}$ ,
- c) those portions of below grade walls and footings that are more than 10 feet below grade, and not included in the gross exterior wall area, need not be included when determining  $A_{bgwi}$  and  $A_{bgw}$ .

- 2. Concrete Masonry Walls:** If the area weighted heat capacity of the total opaque above grade wall is a minimum of 9.0 Btu/ft<sup>2</sup> • °F, then the U-factor may be increased to 0.19 for interior insulation and 0.25 for integral and exterior insulation for insulation position as defined in Chapter ((12)) 2. Individual walls with heat capacities less than 9.0 Btu/ft<sup>2</sup> • °F and below grade walls shall meet opaque wall requirements listed above. Glazing shall comply with the following:

Maximum Glazing Area as % of Wall	0 to 10 %		>10 to 15 %		>15% to 20 %		>20% to 25 %					
	Maximum U-Factor		Max. SHGC <sup>4</sup>	Maximum U-Factor		Max. SHGC <sup>4</sup>	Maximum U-Factor		Max. SHGC <sup>4</sup>	Maximum U-Factor		Max. SHGC <sup>4</sup>
	VG	OG		VG	OG		VG	OG		VG	OG	
1. Electric resistance heat	0.40	0.80	1.0	0.40	0.80	1.0	0.40	0.80	1.0	NOT ALLOWED		
2. All others including Heat pumps and VAV	0.90	1.45	1.0	0.75	1.40	1.0	0.65	1.30	0.80	0.60	1.30	0.65

3. ~~(Metal Stud Walls: For metal stud construction U=0.11.) Reserved.~~

4. **SHGC (Solar Heat Gain Coefficient per Section 1312.2):** May substitute Maximum Shading Coefficient (SC) for SHGC (See ((Section 1210)) Chapter 2 for definition of Shading Coefficient).

5. **Radiant Floors:** Where insulation is required under the entire slab, radiant floors shall use a minimum of R-10 insulation or F=0.55 maximum. Where insulation is not required under the entire slab, radiant floors shall use R-10 perimeter insulation according to Section 1311.6 or F=0.78 maximum.

**TABLE 13-2  
BUILDING ENVELOPE REQUIREMENTS  
FOR CLIMATE ZONE 2  
MINIMUM INSULATION R-VALUES OR  
MAXIMUM COMPONENT U-FACTORS FOR ZONE 2**

**Building Components**

Space Heat Type	Components					
	Roofs Over Attic	All Other Roofs	Opaque Walls <sup>1,2</sup>	Opaque Doors	Floor Over Uncond Space	Slab On Grade
1. Electric resistance heat <sup>22</sup>	R-38 or U=0.031	R-30 or U=0.034	R-24 or U=0.044 <sup>(?)</sup>	U=0.60	R-30 or U=0.029	R-10 or F=0.54

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2. All others including Heat pumps and VAV	R-38 or U=0.031	R-25 or U=0.040	R-19 or U=0.11	U=0.60	R-21 or U=0.047	R-10 or F=0.54
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\*\* Compliance with nominal prescriptive R-values requires wood framing.

**MAXIMUM GLAZING AREAS AND U-FACTORS AND  
MAXIMUM GLAZING SOLAR HEAT GAIN COEFFICIENTS  
FOR ZONE 2**

**Glazing**

Maximum Glazing Area as % of Wall	0% to 15%		>15% to 20%		>20% to 25%		>25% to 30%					
	Maximum U-Factor		Max. SHGC <sup>4</sup>	Maximum U-Factor		Max. SHGC <sup>4</sup>	Maximum U-Factor		Max. SHGC <sup>4</sup>			
	VG	OG		VG	OG		VG	OG				
1. Electric resistance heat	0.40	0.80	1.0	0.40	0.80	1.0	PRESCRIPTIVE PATH NOT ALLOWED					
2. All others including Heat pumps and VAV	0.90	1.45	1.0	0.75	1.40	1.0	0.60	1.30	0.60	0.50	1.25	0.50

**Footnotes**

- Below Grade Walls:**  
When complying by the prescriptive approach, Section 1322:  
 a) walls insulated on the interior shall use opaque wall values,  
 b) walls insulated on the exterior shall use a minimum of R-12 insulation,  
 c) those portions of below grade walls and footings that are more than 10 feet below grade, and not included in the gross exterior wall area, may be left uninsulated.  
 When complying by the component performance approach, Section 1331:  
 a) walls insulated on the interior shall use the opaque wall values when determining  $U_{bgwt}$ ,  
 b) walls insulated on the exterior shall use a target U-factor of  $U=0.061$  for  $U_{bgwt}$ ,  
 c) those portions of below grade walls and footings that are more than 10 feet below grade, and not included in the gross exterior wall area, need not be included when determining  $A_{bgwt}$  and  $A_{bgw}$ .
- Concrete Masonry Walls:** If the area weighted heat capacity of the total opaque above grade wall is a minimum of 9.0 Btu/ft<sup>2</sup> • °F, then the U-factor may be increased to 0.19 for interior insulation and 0.25 for integral and exterior insulation for insulation position as defined in Chapter ((42)) 2. Individual walls with heat capacities less than 9.0 Btu/ft<sup>2</sup> • °F and below grade walls shall meet opaque wall requirements listed above. Glazing shall comply with the following:

Maximum Glazing Area as % of Wall	0 to 5 %		>5 to 7 %		>7% to 10 %		>10% to 15 %					
	Maximum U-Factor		Max. SHGC <sup>4</sup>	Maximum U-Factor		Max. SHGC <sup>4</sup>	Maximum U-Factor		Max. SHGC <sup>4</sup>			
	VG	OG		VG	OG		VG	OG				
1. Electric resistance heat	0.40	0.80	1.0	0.40	0.80	1.0	0.40	0.80	1.0	NOT ALLOWED		
2. All others including Heat pumps and VAV	0.90	1.45	1.0	0.60	1.30	0.70	0.50	1.25	0.50	0.40	0.80	0.40

- ~~(Metal Stud Walls: For metal stud construction U=0.10.)~~ Reserved.
- SHGC (Solar Heat Gain Coefficient per Section 1312.2):** May substitute Maximum Shading Coefficient (SC) for SHGC (See ((Section 1240)) Chapter 2 for definition of Shading Coefficient).
- Radiant Floors:** Where insulation is required under the entire slab, radiant floors shall use a minimum of R-10 insulation or F=0.55 maximum. Where insulation is not required under the entire slab, radiant floors shall use R-10 perimeter insulation according to Section 1311.6 or F=0.78 maximum.

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

AMENDATORY SECTION (Amending WSR 93-21-052, filed 10/18/93, effective 4/1/94)

**WAC 51-11-1410 General requirements.** The building mechanical system shall comply with Sections 1411 through ((1415)) 1416, Sections 1440 through ((1442)) 1443 and Sections 1450 through 1454, and with one of the following paths:

- Simple Systems (Packaged Unitary Equipment) Sections 1420 through 1424.
- Complex Systems Sections 1430 through ((1438)) 1439.
- Systems Analysis. See Section 1141.4.

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FIGURE 14A  
Mechanical Systems Compliance Paths

Section Number	Subject	Simple Systems Path	Complex Systems Path	Systems Analysis Option
1410	General Requirements	X	X	X
1411	HVAC Equipment Performance Requirements	X	X	X
1412	Controls	X	X	X
1413	Air Economizers	X	X	X
1414	Ducting Systems	X	X	X
1415	Piping Systems	X	X	X
<u>1416</u>	<u>Completion Requirements</u>	<u>X</u>	<u>X</u>	<u>X</u>
1420	Simple Systems (Packaged Unitary Equipment)	X		
1421	System Type	X		
1422	Controls	X		
1423	Economizers	X		
1424	Separate Air Distribution Systems	X		
1430	Complex Systems		X	
1431	System Type		X	
1432	Controls		X	
1433	Economizers		X	
1434	Separate Air Distribution Systems		X	
1435	Simultaneous Heating and Cooling		X	
1436	Heat Recovery		X	
1437	Electric Motor Efficiency		X	
1438	Variable Flow Systems		X	
<u>1439</u>	<u>Exhaust Hoods</u>		<u>X</u>	
RS-29	Systems Analysis			X
1440	Service Water Heating	X	X	X
1441	Water Heater Installation	X	X	X
1442	Shut Off Controls	X	X	X
<u>1443</u>	<u>Pipe Insulation</u>	<u>X</u>	<u>X</u>	<u>X</u>
1450	Heated Pools	X	X	X
1451	General	X	X	X
1452	Pool Water Heaters	X	X	X
1453	Controls	X	X	X
1454	Pool Covers	X	X	X

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**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-1411 HVAC equipment performance requirements.**

1411.1 General: Equipment shall have a minimum performance at the specified rating conditions not less than the values shown in Tables 14-1 through 14-3. If a nationally recognized certification program exists for a product covered in Tables 14-1 through 14-3, and it includes provisions for verification and challenge of equipment efficiency ratings, then the product shall be listed in the certification program.

1411.2 Rating Conditions: Cooling equipment shall be rated at ARI test conditions and procedures when available. Where no applicable procedures exist, data shall be furnished by the equipment manufacturer.

1411.3 Combination Space and Service Water Heating: For combination space and service water heaters with a principal function of providing space heat, the Combined Annual Efficiency (CAE) may be calculated by using ASHRAE Standard 124-1991. Storage water heaters used in combination space heat and water heat applications shall have either an Energy Factor (EF) or a Combined Annual Efficiency (CAE) of not less than the following:

	Energy Factor (EF)	Combined Annual Efficiency (CAE)
< 50 gallon storage	0.58	0.71
50 to 70 gallon storage	0.57	0.71
> 70 gallon storage	0.55	0.70

1411.4 Packaged Electric Heating and Cooling Equipment: Packaged electric equipment providing both heating and cooling with a total cooling capacity greater than 20,000 Btu/h shall be a heat pump.

EXCEPTION: Unstaffed equipment shelters or cabinets used solely for personal wireless service facilities.

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-1412 Controls.**

1412.1 Temperature Controls: Each system shall be provided with at least one temperature control device. Each zone shall be controlled by individual thermostatic controls responding to temperature within the zone. At a minimum, each floor of a building shall be considered as a separate zone.

1412.2 Deadband Controls: When used to control both comfort heating and cooling, zone thermostatic controls shall be capable of a deadband of at least 5 degrees F within which the supply of heating and cooling energy to the zone is shut off or reduced to a minimum.

EXCEPTIONS: 1. Special occupancy, special usage, or code requirements where deadband controls are not appropriate.  
 2. Buildings complying with Section 1141.4, if in the proposed building energy analysis, heating and cooling thermostat setpoints are set to the same temperature between 70 degrees F and 75 degrees F inclusive, and assumed to be constant throughout the year.  
 3. Thermostats that require manual changeover between heating and cooling modes.

1412.3 Humidity Controls: If a system is equipped with a means for adding moisture, a humidistat shall be provided.

1412.4 Setback and Shut-Off: HVAC systems shall be equipped with automatic controls capable of accomplishing a reduction of energy use through control setback or equipment shutdown during periods of non-use or alternate use of the spaces served by the system. The automatic controls shall have a minimum seven-day clock and be capable of being set for seven different day types per week.

EXCEPTIONS: 1. Systems serving areas which require continuous operation at the same temperature setpoint.  
 2. Equipment with full load demands of 2 Kw (6,826 Btu/h) or less may be controlled by readily accessible manual off-hour controls.

1412.4.1 Dampers: Outside air intakes, exhaust outlets and relief outlets serving conditioned spaces shall be equipped with dampers which close automatically when the system is off or upon power failure.

EXCEPTIONS: 1. Systems serving areas which require continuous operation.  
 2. Combustion air intakes.

**1412.4.2 Optimum Start Controls: Heating and cooling systems with design supply air capacities exceeding 10,000**

cfm shall have optimum start controls. Optimum start controls shall be designed to automatically adjust the start time of an HVAC system each day to bring the space to desired occupied temperature levels immediately before scheduled occupancy. The control algorithm shall, as a minimum, be a function of the difference between space temperature and occupied setpoint and the amount of time prior to scheduled occupancy.

1412.5 Heat Pump Controls: Unitary air cooled heat pumps shall include microprocessor controls that minimize supplemental heat usage during start-up, set-up, and defrost conditions. These controls shall anticipate need for heat and use compression heating as the first stage of heat. Controls shall indicate when supplemental heating is being used through visual means (e.g., LED indicators).

1412.6 Combustion Heating Equipment Controls: Combustion heating equipment with a capacity over 225,000 Btu/h shall have modulating or staged combustion control.

EXCEPTIONS: Boilers.  
 Radiant heaters.

1412.7 Balancing: Each air supply outlet or air or water terminal device shall have a means for balancing, including but not limited to, dampers, temperature and pressure test connections and balancing valves.

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-1414 Ducting systems.**

1414.1 Sealing: Duct work which is designed to operate at pressures above 1/2 inch water column static pressure shall be sealed in accordance with Standard RS-18. Extent of sealing required is as follows:

1. Static pressure: 1/2 inch to 2 inches; seal transverse joints.
2. Static pressure: 2 inches to 3 inches; seal all transverse joints and longitudinal seams.
3. Static pressure: Above 3 inches; seal all transverse joints, longitudinal seams and duct wall penetrations.

Duct tape and other pressure sensitive tape shall not be used as the primary sealant where ducts are designed to operate at static pressures of 1 inch W.C. or greater.

1414.2 Insulation: Ducts and plenums that are constructed and function as part of the building envelope, by separating interior space from exterior space, shall meet all applicable requirements of Chapter 13. These requirements include insulation installation, moisture control, air leakage, and building envelope insulation levels. Unheated equipment rooms with combustion air louvers must be isolated from the conditioned space by insulating interior surfaces to a minimum of R-11 and any exterior envelope surfaces per Chapter 13. Outside air ducts serving individual supply air units with less than 2,800 cfm of total supply air capacity shall be insulated to a minimum of R-7 and are not considered building envelope. Other outside air duct runs are considered building envelope until they,

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1. connect to the heating or cooling equipment, or
2. are isolated from the exterior with an automatic shut-off damper complying with Section 1412.4.1.

Once outside air ducts meet the above listed requirements, any runs within conditioned space (~~((must))~~) shall comply with Table 14-5 requirements.

Other ducts and plenums shall be thermally insulated per Table 14-5.

- EXCEPTIONS:
1. Within the HVAC equipment.
  2. Exhaust air ducts not subject to condensation.
  3. Exposed ductwork within a (~~((space))~~) zone that serves that (~~((space-only))~~) zone.

**AMENDATORY SECTION** (Amending WSR 93-21-052, filed 10/18/93, effective 4/1/94)

### WAC 51-11-1415 Piping systems.

1415.1 Insulation: Piping shall be thermally insulated in accordance with Table 14-6.

EXCEPTION: Piping installed within unitary HVAC equipment.

Cold water pipes outside the conditioned space shall be insulated in accordance with the Washington State Plumbing Code (chapter (~~((51-26))~~) 51-46 WAC).

### NEW SECTION

### WAC 51-11-1416 Completion requirements.

1416.1 Drawings: Construction documents shall require that within 90 days after the date of system acceptance, record drawings of the actual installation be provided to the building owner. Record drawings shall include as a minimum the location and performance data on each piece of equipment, general configuration of duct and pipe distribution system, including sizes, and the terminal air and water design flow rates.

1416.2 Manuals: Construction documents shall require an operating manual and maintenance manual be provided to the building owner. The manual shall be in accordance with industry accepted standards and shall include, at a minimum, the following:

1. Submittal data stating equipment size and selected options for each piece of equipment requiring maintenance.
2. Operation and maintenance manuals for each piece of equipment requiring maintenance, except equipment not furnished as part of the project. Required routine maintenance actions shall be clearly identified.
3. Names and addresses of at least one service agency.
4. HVAC controls system maintenance and calibration information, including wiring diagrams, schematics, and control sequence descriptions. Desired or field determined set points shall be permanently recorded on control drawings at control devices, or, for digital control systems, in programming comments.
5. A complete narrative of how each system is intended to operate including suggested set points.

### 1416.3 System Balancing

1416.3.1 General: Construction documents shall require that all HVAC systems be balanced in accordance with generally accepted engineering standards. Air and water flow rates shall be measured and adjusted to deliver final flow rates within 10% of design rates, except variable flow distribution systems need not be balanced upstream of the controlling device (for example, VAV box or control valve). Construction documents shall require a written balance report be provided to the owner.

1416.3.2 Air System Balancing: Air systems shall be balanced in a manner to first minimize throttling losses then, for fans with system power of greater than 1 hp, fan speed shall be adjusted to meet design flow conditions.

1416.3.3 Hydronic System Balancing: Hydronic systems shall be proportionately balanced in a manner to first minimize throttling losses, then the pump impeller shall be trimmed or pump speed shall be adjusted to meet design flow conditions. Each hydronic system shall have either the ability to measure pressure across the pump, or test ports at each side of each pump.

- EXCEPTIONS:
1. Pumps with pump motors of 10 hp or less.
  2. When throttling results in no greater than 5% of the nameplate horsepower draw above that required if the impeller were trimmed.

### 1416.4 Systems Commissioning

1416.4.1 Simple Systems: For simple systems, as defined in Section 1421, and for warehouses and semi-heated spaces, HVAC control systems shall be tested to ensure that control devices, components, equipment and systems are calibrated, adjusted and operate in accordance with approved plans and specifications. Sequences of operation shall be functionally tested to ensure they operate in accordance with approved plans and specifications. A complete report of test procedures and results shall be prepared and filed with the owner. Drawing notes shall require commissioning in accordance with this paragraph.

1416.4.2 Other Systems: All other HVAC control systems, and other automatically controlled systems for which energy consumption, performance, or mode of operation are regulated by this code, shall be tested to ensure that control devices, equipment and systems are calibrated, adjusted and operate in accordance with approved plans and specifications. Sequences of operation shall be functionally tested to ensure they operate in accordance with approved plans and specifications.

1416.4.2.1 Documentation: Drawing notes shall require commissioning in accordance with this section. Drawing notes may refer to specifications for further commissioning requirements. Plans and specifications shall require tests mandated by this section be performed and the results recorded. Plans and specifications shall require preparation of preliminary and final reports of test procedures and results as described in Section 1416.4.2.2. Plans and specifications shall identify the following for each test:

1. Equipment and systems to be tested, including the extent of sampling tests,
2. Functions to be tested (for example calibration, economizer control, etc.),
3. Conditions under which the test shall be performed (for example winter design conditions, full outside air, etc.),
4. Measurable criteria for acceptable performance.

#### 1416.4.2.2 Commissioning Reports

1416.4.2.2.1 Preliminary Commissioning Report: A preliminary commissioning report of test procedures and results shall be prepared. The preliminary report shall identify:

1. Deficiencies found during testing required by this section which have not been corrected at the time of report preparation and the anticipated date of correction.

2. Deferred tests which cannot be performed at the time of report preparation due to climatic conditions.

3. Climatic conditions required for performance of the deferred tests, and the anticipated date of each deferred test.

1416.4.2.2.2 Final Commissioning Report: A complete report of test procedures and results shall be prepared and filed with the owner.

1416.4.2.3 Acceptance: Buildings or portions thereof, required by this code to comply with this section, shall not be issued a final certificate of occupancy until such time that the building official determines that the preliminary commissioning report required by this section has been completed.

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-1423 Economizers.** Economizers meeting the requirements of Section 1413 shall be installed on single package unitary fan-cooling units having a supply capacity of greater than 1,900 cfm or a total cooling capacity greater than 54,000 Btu/h.

The total capacity of all units without economizers shall not exceed 240,000 Btu/h per building, or 10% of its aggregate cooling (economizer) capacity, whichever is greater. That portion of the equipment serving Group R occupancy is not included in determining the total capacity of all units without economizers in a building.

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-1433 Economizers.** Economizers meeting the requirements of Section 1413 shall be installed on the following systems:

- a. Single package unitary fan-cooling units with a supply capacity of greater than 1,900 cfm or a total cooling capacity greater than 54,000 Btu/h.
- b. Other individual fan-cooling units with a supply capacity of greater than 2,800 cfm or a total cooling capacity greater than 84,000 Btu/h.

The total capacity of all units without economizers shall not exceed 240,000 Btu/h per building, or 10% of its aggregate cooling (economizer) capacity, whichever is greater. That portion of the equipment serving Group R occupancy is not included in determining the total capacity of all units without economizers in a building.

- EXCEPTIONS:
1. Systems with air or evaporatively cooled condensers and that either one of the following can be demonstrated to the satisfaction of the enforcing agency:
    - a. Special outside air filtration and treatment, for the reduction and treatment of unusual outdoor contaminants, makes an air economizer infeasible.
    - b. The use of outdoor air cooling affects the operation of other systems (such as humidification, dehumidification, and supermarket refrigeration systems) so as to increase the overall building energy consumption.
  2. Systems for which at least 75 percent of the annual energy used for mechanical cooling is provided from site-recovery or site-solar energy source.
  3. A water economizer system, which is capable of cooling supply air by indirect evaporation. Such a system shall be designed and capable of being controlled to provide 100 percent of the expected system cooling load at outside air temperatures of 50 degrees F dry-bulb/45 degrees F wet-bulb and below. For this calculation, all factors including solar and internal load shall be the same as those used for peak load calculations, except for the outside air temperatures.

**AMENDATORY SECTION** (Amending WSR 93-21-052, filed 10/18/93, effective 4/1/94)

**WAC 51-11-1435 Simultaneous heating and cooling.** Systems which provide heating and cooling simultaneously to a zone are prohibited. Zone thermostatic and humidistatic controls shall be capable of operating in sequence the supply of heating and cooling energy to the zone. Such controls shall prevent:

- a. Reheating for temperature control.
- b. Recooling for temperature control.
- c. Mixing or simultaneous supply of air that has been previously mechanically heated and air that has been previously cooled, either by economizer systems (~~for all air in excess of that required by the Washington State Ventilation and Indoor Air Quality Code (WAC 51-13))~~) or by mechanical refrigeration.
- d. Other simultaneous operation of heating and cooling systems to the same zone.
- e. Reheating for humidity control.

- EXCEPTIONS: (~~1. Variable air volume systems which have fan-powered terminal units on the perimeter zones controlled to utilize plenum heat prior to new energy being used for morning warm-up; and which, during periods of occupancy, are designed to reduce the air supply to each zone to a minimum before reheating, recooling, or mixing takes place. The minimum volume of air from the main supply duct shall be no greater than the minimum required to meet ventilation requirements of the Washington State Ventilation and Indoor Air Quality Code (WAC 51-13).~~
2. ~~Zones having special pressurization relationships or cross-contamination requirements.~~
  3. ~~Where at least 75 percent of the energy for reheating or for providing warm air in mixing systems is pro-~~

- ~~vided from a site-recovered or site-solar energy source.~~
4. ~~Zones where specific humidity levels are required.~~
  5. ~~Zones with a peak supply air quantity of 300 cfm or less-))~~
  1. ~~Zones for which the volume of air that is reheated, recooled, or mixed is no greater than the larger of the following:~~
    - i. ~~The volume of air required to meet the ventilation requirements of the Washington State Ventilation and Indoor Air Quality Code for the zone.~~
    - ii. ~~0.4 cfm/ft<sup>2</sup> of the zone conditioned floor area, provided that the temperature of the primary system air is, by design or through reset controls, 0-12°F below the design space heating temperature when outside air temperatures are below 60°F for reheat systems and the cold deck of mixing systems and 0-12°F above design space temperature when outside air temperatures are above 60°F for recooling systems and the hot deck of mixing systems. For multiple zone systems, each zone need not comply with this exception provided the average of all zones served by the system that have both heating and cooling ability comply.~~
    - iii. ~~300 cfm. This exception is for zones whose peak flow rate totals no more than 10% of the total fan system flow rate.~~
    - iv. ~~Any higher rate that can be demonstrated, to the satisfaction of the building official, to reduce overall system annual energy usage by offsetting reheat/ recool energy losses through a reduction in outdoor air intake in accordance with the multiple space requirements defined in ASHRAE Standard 62.~~
  2. ~~Zones where special pressurization relationships, cross-contamination requirements, or code-required minimum circulation rates are such that variable air volume systems are impractical.~~
  3. ~~Zones where at least 75% of the energy for reheating or for providing warm air in mixing systems is provided from a site-recovered (including condenser heat) or site solar energy source.~~
  4. ~~Zones where specific humidity levels are required to satisfy process needs, such as computer rooms, museums, surgical suites, and buildings with refrigerating systems, such as supermarkets, refrigerated warehouses, and ice arenas.~~

**AMENDATORY SECTION** (Amending WSR 93-21-052, filed 10/18/93, effective 4/1/94)

**WAC 51-11-1438 Variable flow systems.** For fans and pumps greater than 10 horsepower, where the application involves variable flow, there shall be variable (~~frequency~~) speed drives or variable flow devices installed. Acceptable variable flow devices include variable inlet vanes, variable blade pitch, and variable fan geometry. Throttling valves (dampers), scroll dampers or bypass circuits shall not be allowed.

#### **NEW SECTION**

##### **WAC 51-11-1439 Exhaust hoods.**

**1439.1 Kitchen Hoods.** Individual kitchen exhaust hoods larger than 5000 cfm shall be provided with make-up air sized so that at least 50% of exhaust air volume be (a) unheated or heated to no more than 60°F and (b) uncooled or cooled without the use of mechanical cooling.

- EXCEPTIONS:**
1. Where hoods are used to exhaust ventilation air which would otherwise exfiltrate or be exhausted by other fan systems.
  2. Certified grease extractor hoods that require a face velocity no greater than 60 fpm.

**1439.2 Fume Hoods.** Each fume hood in buildings with fume hood systems having a total exhaust rate greater than 15,000 cfm shall include at least one of the following features:

- (a) Variable air volume hood exhaust and room supply systems capable of reducing exhaust and make-up air volume to 50% or less of design values.
- (b) Direct make-up (auxiliary) air supply equal to at least 75% of the exhaust rate, heated no warmer than 2°F below room set point, cooled to no cooler than 3°F above room set point, no humidification added, and no simultaneous heating and cooling used for dehumidification control.
- (c) Heat recovery systems to precondition make-up air in accordance with Section 1436, without using any exception.
- (d) Constant volume fume hood designed and installed to operate at less than 50 fpm face velocity.

#### **NEW SECTION**

**WAC 51-11-1443 Pipe insulation.** Piping shall be thermally insulated in accordance with Section 1415.1.

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-1454 Pool covers.** Heated pools shall be equipped with a vapor retardant pool cover on or at the water surface. Pools heated to more than 90 degrees F shall have a pool cover with a minimum insulation value of R-12.

**TABLE 14-1**  
**Standard Rating Conditions and Minimum Performance for**  
**Air Cooled Unitary Air Conditioners, Heat Pumps, Packaged Terminal Air Conditioners,**  
**Warm Air Furnaces, Duct Furnaces and Unit Heaters**

Equipment Type & Rating	Category	Sub-category & Rating Conditions	Minimum Rating		Standard
			Steady State	Seasonal or Part Load	
Air Conditioners and Heat Pumps Cooling Ratings	≤65,000 Btu/h Cooling Capacity	Split Systems Single Package	NA NA	10.0 SEER 9.7 SEER	ARI 210/240 -1989
	>65,000 and ≤135,000 Btu/h Cooling Capacity	All Unitary Standard Ratings:	8.9 EER 95°F db	8.3 IPLV 80°F db	
	>135,000 and ≤760,000 Btu/h <sup>1</sup> Cooling Capacity	Air Conditioners Heat Pumps	8.5 EER 8.5 EER	7.5 IPLV 7.5 IPLV	ARI 360 -1986
	>760,000 Btu/h <sup>1</sup> Cooling Capacity	Air Conditioners Heat Pumps	8.2 EER 8.7 EER	7.5 IPLV 7.5 IPLV	
Packaged Term. Air Conditioners & Heat Pumps Cooling Ratings	All Capacities	Air Conditioners and Heat Pumps Standard/Low Temp[:]	10.0 - (0.16 x Cap/1000) <sup>3</sup> EER 95°F	12.2 - (0.20 x Cap/1000) <sup>2,3</sup> EER 82°F	ARI 310 -1990
Heat Pump Heating Ratings	≤65,000 Btu/h Cooling Capacity	Split Systems Single Package		6.8 HSPF 6.6 HSPF	ARI 210/240 -1989
	>65,000 and ≤135,000 Btu/h Cooling Capacity	All Unitary Standard Ratings:	3.0 COP 47°F db/43°F wb	2.0 COP 17°F db/15°F wb	
	>135,000 Btu/h Cooling Capacity	Standard Ratings[:]	2.9 COP 47°F	2.0 COP 17°F	ARI 365 -1986
Packaged Term. Heat Pumps Heating Ratings	All Capacities	Heat Pumps Standard Ratings[:]	2.9 - (0.026 x Cap/1000) <sup>3</sup> (((EER)-(COP))) COP 47°F db/ 43°F wb		ARI 380 -1990
Warm Air Furnaces & Combination Furnace/A.C.	<225,000 Btu/h	Gas and Oil Fired Seasonal Ratings[:]	80% E <sub>t</sub> <sup>4</sup>	78% AFUE <sup>5</sup>	DOE 10 CFR Part430 AppN
	≥225,000 Btu/h	Gas, Max Rating <sup>6</sup> Gas, Min Rating <sup>6</sup>	80% E <sub>t</sub> <sup>4</sup> 78% E <sub>t</sub> <sup>4</sup>	NA NA	ANSI Z21.47 -1983
	≥225,000 Btu/h	Oil, Max Rating <sup>6</sup> Oil, Min Rating <sup>6</sup>	81% E <sub>t</sub> <sup>4</sup> 81% E <sub>t</sub> <sup>4</sup>	NA NA	UL 727 -1986
Warm-Air Duct Furnaces and Unit Heaters	All Size Gas Duct Furnaces	Max Rated Capacity <sup>6</sup>	78% E <sub>t</sub> <sup>4</sup>	NA	ANSI Z83.9 -1986
		Min Rated Capacity <sup>6</sup>	75% E <sub>t</sub> <sup>4</sup>	NA	
	All Size Gas Unit Heaters	Max Rated Capacity <sup>6</sup>	78% E <sub>t</sub> <sup>4</sup>	NA	ANSI Z83.8 -1985
		Min Rated Capacity <sup>6</sup>	74% E <sub>t</sub> <sup>4</sup>	NA	
All Size Oil Unit Heaters	Max Rated Capacity <sup>6</sup>	81% E <sub>t</sub> <sup>4</sup>	NA	UL 731 -1988	
	Min Rated Capacity <sup>6</sup>	81% E <sub>t</sub> <sup>4</sup>	NA		

- For units that have a heating section, deduct 0.2 from all required EER's and IPLV's.
- For multi-capacity equipment the minimum performance shall apply to each step provided Multi-capacity refers to manufacturer published rating for more than one capacity mode allowed by the product's controls.
- Capacity (Cap) means the rated cooling capacity of the product in Btu/h in accordance with the cited ARI standard. If the unit's capacity is less than 7,000 Btu/h, use 7,000 Btu/h in the calculation. If the unit's capacity is greater than 15,000 Btu/h, use 15,000 Btu/h in the calculation.
- These values apply to non-NAECA equipment. See referenced standard for definition of Thermal efficiency (Et), (100% flue losses).

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TABLE 14-2

**Standard Rating Conditions and Minimum Performance for Water and Evaporatively Cooled Unitary Air Conditioners, Heat Pumps, Water Source and Ground Source Heat Pumps, Condensing Units, and Water Chilling Packages**

Equipment Type & Rating	Category	Sub-category & Rating Conditions	Minimum Rating		Standard
			Steady State	Seasonal or Part Load	
Evaporatively Cooled A/Cs & Heat Pumps Cooling Ratings	≤65,000 Btu/h Cooling Capacity	Standard Conditions <sup>1</sup> :	9.3 EER	8.5 IPLV	ARI 210/240 -1989
	>65,000 and ≤135,000 Btu/h Cooling Capacity	Outdoor Conditions: 95°F db/75°F wb	10.5 EER	9.7 IPLV	CTI 201 -1986
Water Source Heat Pump Cooling Ratings	≤65,000 Btu/h Cooling Capacity	Standard Conditions <sup>1</sup> : Entering Water[:]	9.3 EER 85°F ewt <sup>2</sup>	10.2 EER 75°F ewt <sup>2</sup>	ARI 320 -1986
	>65,000 and ≤135,000 Btu/h Cooling Capacity	Standard Conditions <sup>1</sup> : Entering Water[:]	10.5 EER 85°F ewt <sup>2</sup>	NA	CTI 201 -1986
Ground Water Heat Pump Cooling Ratings	<135,000 Btu/h Cooling Capacity	Standard Conditions <sup>1</sup> : Entering Water[:]	11.0 EER 70°F ewt <sup>2</sup>	11.5 EER 50°F ewt <sup>2</sup>	ARI 325 -1985
Water Cooled Unitary Air Conditioners Cooling Ratings	≤65,000 Btu/h Cooling Capacity	Standard Conditions <sup>1</sup> : Entering Water[:]	9.3 EER 85°F ewt <sup>2</sup>	8.3 IPLV 75°F ewt <sup>2</sup>	ARI 210/240 -1989
	>65,000 and ≤135,000 Btu/h Cooling Capacity	Standard Conditions <sup>1</sup> : Entering Water[:]	10.5 EER 85°F ewt <sup>2</sup>	NA	CTI 201 -1986
Water/Evap Cooled Air Cond. and Heat Pumps Cooling Ratings	>135,000 Btu/h Cooling Capacity	Standard Conditions <sup>1</sup> :	9.6 EER	9.0 IPLV	ARI 360 -1986 CTI 201 -1986
Air and Water/Evap Cooled Condensing Units Cooling Ratings <sup>3</sup>	>135,000 Btu/h Cooling Capacity	Air Cooled	9.9 EER	11.0 IPLV	ARI 365 -1987
		Water/Evap Cooled	12.9 EER	12.9 IPLV	CTI 201 -1986
Air and Water Cooled Water Chilling Packages Cooling Ratings	<150 Tons	Water Cooled	3.8 COP	3.9 IPLV	ARI 550-90 ARI 590-86pN CTI 201 -1986
	≥150 and <300 Tons		4.2 COP	4.5 IPLV	
	≥300 Tons		5.2 COP <sup>4</sup>	5.3 IPLV <sup>4</sup>	
	<150 Tons	Air Cooled with Condenser	2.7 COP	2.8 IPLV	
	≥150 Tons		2.5 COP	2.5 IPLV	
	All Capacities	Air Cooled Condenserless	3.1 COP	3.2 IPLV	
Water & Ground-Water Source Heat Pumps Heating Ratings	<135,000 Btu/h Cooling Capacity	Water Source Standard Conditions <sup>1</sup> :	3.8 COP 70°F ewt <sup>2</sup>	NA NA	ARI 320 -1986
		Ground Water Source Standard Conditions <sup>1</sup> :	3.4 COP 70°F ewt <sup>2</sup>	3.0 COP 50°F ewt <sup>2</sup>	ARI 325 -1985

- Standard Indoor Conditions: 80°F dry bulb and 67°F wet bulb.
- ewt: Entering Water Temperature for water cooled heat pumps and air conditioners.
- Condensing unit requirements are based on single - number rating defined in paragraph 5.1.3.2 of ARI Standard 365.
- These requirements are reduced to 4.7 COP and 4.8 IPLV, where refrigerants with ozone depletion factors of 0.05 or less are used. No reduction is allowed for standard design systems analyzed under RS-29.

**TABLE 14-3  
Standard Rating Conditions and Minimum Performance,  
Gas- and Oil-Fired Boilers**

Reference	Category	Rating Condition	Minimum Performance
DOE Test Procedure 10 CFR, Part 430 AppN	Gas-Fired <300,000 Btu/h	Seasonal Rating	AFUE 80% <sup>1,3</sup>
	Oil-Fired <300,000 Btu/h	Seasonal Rating	AFUE 80% <sup>1</sup>

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Reference	Category	Rating Condition	Minimum Performance
ANSI Z21.13-87 H.I. Htg. Boiler Std. 86 ASME PTC4.1-64 U.L. 795-73	Gas-Fired ≥300,000 Btu/h	1. Max. Rated Capacity <sup>2</sup> Steady-State	E <sub>c</sub> <sup>4</sup> 80%
		2. Min. Rated Capacity <sup>2</sup> Steady-State	E <sub>c</sub> <sup>4</sup> 80%
U.L. 726-75 H.I. Htg. Boiler Std. 86 ASME PTC4.1-64	Oil-Fired ≥300,000 Btu/h	1. Max. Rated Capacity <sup>2</sup> Steady-State	E <sub>c</sub> <sup>4</sup> 83%
		2. Min. Rated Capacity <sup>2</sup> Steady-State	E <sub>c</sub> <sup>4</sup> 83%
H.I. Htg. Boiler Std. 86  ASME PTC4.1-64	Oil-Fired (Residual)  ≥300,000 Btu/h	1. Max. Rated Capacity <sup>2</sup> Steady-State	E <sub>c</sub> <sup>4</sup> 83%
		2. Min. Rated Capacity <sup>2</sup> Steady-State	E <sub>c</sub> <sup>4</sup> 83%

1. To be consistent with National Appliance Energy Conservation Act of 1987 (P.L. 100-12).
2. Provided and allowed by the controls.
3. Except for gas-fired steam boilers for which minimum AFUE is 75%.
4. E<sub>c</sub>= combustion efficiency, 100% - flue losses. See reference document for detailed information.

**TABLE 14-4**  
**Energy Efficient Electric Motors**  
**Minimum Nominal Full-Load Efficiency**

Synchronous Speed (RPM)	Open Motors			Closed Motors		
	3,600	1,800	1,200	3,600	1,800	1,200
HP	Efficiency	Efficiency	Efficiency	Efficiency	Efficiency	Efficiency
1.0	-	82.5	80.0	75.5	82.5	80.0
1.5	82.5	84.0	84.0	82.5	84.0	85.5
2.0	84.0	84.0	85.5	84.0	84.0	86.5
3.0	84.0	86.5	86.5	85.5	87.5	87.5
5.0	85.5	87.5	87.5	87.5	87.5	87.5
7.5	87.5	88.5	88.5	88.5	89.5	89.5
10.0	88.5	89.5	90.2	89.5	89.5	89.5
15.0	89.5	91.0	90.2	90.2	91.0	90.2
20.0	90.2	91.0	91.0	90.2	91.0	90.2
25.0	91.0	91.7	91.7	91.0	92.4	91.7
30.0	91.0	92.4	92.4	91.0	92.4	91.7
40.0	91.7	93.0	93.0	91.7	93.0	93.0
50.0	92.4	93.0	93.0	92.4	93.0	93.0
60.0	93.0	93.6	93.6	93.0	93.6	93.6
75.0	93.0	94.1	93.6	93.0	94.1	93.6
100.0	93.0	94.1	94.1	93.6	94.5	94.1
125.0	93.6	94.5	94.1	94.5	94.5	94.1
150.0	93.6	95.0	94.5	94.5	95.0	95.0
200.0	94.5	95.0	94.5	95.0	95.0	95.0

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**TABLE 14-5  
Duct Insulation**

Duct Type	Duct ((Insulation)) Location	Insulation R-Value	Other Requirements
Supply, Return	Not within conditioned space: On exterior of building, on roof, in attic, in enclosed ceiling space, in walls, in garage, in crawl spaces	R-7	Approved weather proof barrier
Outside air intake	Within conditioned space	R-7	See Section 1414.2
Supply, Return, Outside air intake	Not within conditioned space: in concrete, in ground	R-5.3	
Supply with supply air temperature <55°F or >105°F	Within conditioned space	R-3.3	

Note: Requirements apply to ((both supply and return ducts)) the duct type listed, whether heated or mechanically cooled. Mechanically cooled ducts requiring insulation shall have a vapor retarder, with a perm rating not greater than 0.5 and all joints sealed.

**TABLE 14-6  
Minimum Pipe Insulation (inches)<sup>1</sup>**

Fluid Design Operating Temp. Range, °F	Insulation Conductivity		Nominal Pipe Diameter (in.)					
	Conductivity Range Btu • in. / (h • ft <sup>2</sup> • °F)	Mean Rating Temp. °F	Runouts <sup>2</sup> up to 2	1 and less	>1 to 2	>2 to 4	>4 to 6	>6
Heating systems (Steam, Steam Condensate[,] and Hot water)			Nominal Insulation Thickness					
Above 350	0.32-0.34	250	1.5	2.5	2.5	3.0	3.5	3.5
251-350	0.29-0.31	200	1.5	2.0	2.5	2.5	3.5	3.5
201-250	0.27-0.30	150	1.0	1.5	1.5	2.0	2.0	3.5
141-200	0.25-0.29	125	0.5	1.5	1.5	1.5	1.5	1.5
105-140	0.24-0.28	100	0.5	1.0	1.0	1.0	1.5	1.5
Domestic and Service Hot Water Systems								
105 and Greater	0.24-0.28	100	0.5	1.0	1.0	1.5	1.5	1.5
Cooling Systems (Chilled Water, Brine[,] and Refrigerant)								
40-55	0.23-0.27	75	0.5	0.5	0.75	1.0	1.0	1.0
Below 40	0.23-0.27	75	1.0	1.0	1.5	1.5	1.5	1.5

- Alternative Insulation Types. Insulation thicknesses in Table 14-6 are based on insulation with thermal conductivities within the range listed in Table 14-6 for each fluid operating temperature range, rated in accordance with ASTM C 335-84 at the mean temperature listed in the table. For insulation that has a conductivity outside the range shown in Table 14-6 for the applicable fluid operating temperature range at the mean rating temperature shown (when rounded to the nearest 0.01 Btu • in./(h•ft<sup>2</sup>•°F)), the minimum thickness shall be determined in accordance with the following equation:

$$T = PR \left[ \left( 1 + \frac{t}{PR} \right)^{k/k} - 1 \right]$$

Where

T= Minimum insulation thickness for material with conductivity K, inches.

PR=Pipe actual outside radius, inches[.]

t= Insulation thickness from Table 14-6, inches

K= conductivity of alternate material at the mean rating temperature indicated in Table 14-6 for the applicable fluid temperature range, Btu • in.]/(h•ft<sup>2</sup> • °F)

k= the lower value of the conductivity range listed in Table 14-6 for the applicable fluid temperature range, Btu • in.]/(h • ft<sup>2</sup> • °F)

- Runouts to individual terminal units not exceeding 12 ft. in length.

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

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-1512 Exempt lighting.**

1512.1 Exempt Spaces: The following rooms, spaces, and areas, are exempt from the lighting power requirements in Sections 1520 and 1530 but shall comply with all other requirements of this chapter.

1. Areas in which medical or dental tasks are performed.
2. High risk security areas or any area identified by building officials as requiring additional lighting.
3. Spaces designed for primary use by the visually impaired, hard of hearing (lip-reading) or by senior citizens.
4. Food preparation areas.
5. Outdoor manufacturing, greenhouses, and processing areas.
6. Electrical/mechanical equipment rooms.
7. Outdoor athletic facilities.
8. Inspection and restoration areas in galleries and museums.
9. The sanctuary portion of a house of worship, defined as the space or room where the worship service takes place. Classrooms, meeting rooms, offices and multipurpose rooms that are part of the same facility are not exempt.

1512.2 Exempt Lighting Equipment: The following lighting equipment and tasks are exempt from the lighting requirements of Section 1520 and need not be included when calculating the installed lighting power under Section 1530 but shall comply with all other requirements of this chapter. All other lighting in areas that are not exempted by Section 1512.2, where exempt tasks and equipment are used, shall comply with all of the requirements of this chapter.

1. Special lighting needs for research.
2. Emergency lighting that is automatically OFF during normal building operation.
3. Lighting integral to signs, and permanently ballasted lighting fixtures for walkways and pathways.
4. Lighting that is part of machines, equipment or furniture.
5. Lighting that is used solely for indoor plant growth during the hours of 10:00 p.m. to 6:00 a.m.
6. Lighting for theatrical productions, television broadcasting (including sports facilities), audiovisual presentations, and special effects lighting for stage areas and dance floors in entertainment facilities.
7. Lighting for art exhibits, non-retail displays, portable plug in display fixtures, and show case lighting.
8. Exterior lighting for public monuments.

**AMENDATORY SECTION** (Amending WSR 93-21-052, filed 10/18/93, effective 4/1/94)

**WAC 51-11-1513 Lighting controls.** Lighting, including exempt lighting in Section 1512, shall comply with this section. Where occupancy sensors are cited, they shall have

the features listed in Section 1513.6.1. Where automatic time switches are cited, they shall have the features listed in Section 1513.6.2.

1513.1 Local Control and Accessibility: Each space, enclosed by walls or ceiling-height partitions, shall be provided with lighting controls located within that space. The lighting controls, whether one or more, shall be capable of turning off all lights within the space. The controls shall be readily accessible, at the point of entry/exit, to personnel occupying or using the space.

**EXCEPTIONS:** The following lighting controls may be centralized in remote locations:

1. Lighting controls for spaces which must be used as a whole.
2. Automatic controls.
3. Controls requiring trained operators.
4. Controls for safety hazards and security.

1513.2 Area Controls: The maximum lighting power that may be controlled from a single switch or automatic control shall not exceed that which is provided by a twenty ampere circuit loaded to not more than eighty percent. A master control may be installed provided the individual switches retain their capability to function independently. Circuit breakers may not be used as the sole means of switching.

**EXCEPTIONS:**

1. Industrial or manufacturing process areas, as may be required for production.
2. Areas less than five percent of footprint for footprints over 100,000 square feet.

1513.3 Daylight Zone Control: All daylighted zones, as defined in Chapter ((42)) 2, both under overhead glazing and adjacent to vertical glazing, shall be provided with individual controls, or daylight-or occupant-sensing automatic controls, which control the lights independent of general area lighting.

Contiguous daylight zones adjacent to vertical glazing are allowed to be controlled by a single controlling device provided that they do not include zones facing more than two adjacent cardinal orientations (i.e. north, east, south, west). Daylight zones under overhead glazing more than 15 feet from the perimeter shall be controlled separately from daylight zones adjacent to vertical glazing.

**EXCEPTION:** Daylight spaces enclosed by walls or ceiling height partitions and containing 2 or fewer light fixtures are not required to have a separate switch for general area lighting.

1513.4 Display, Exhibition, and Specialty Lighting Controls: All display, exhibition, or specialty lighting shall be controlled independently of general area lighting.

1513.5 Automatic Shut-Off Controls, Exterior: Exterior lighting not intended for 24-hour continuous use shall be automatically switched by timer, photocell, or a combination of timer and photocell. Automatic time switches must also have program back-up capabilities, which prevent the loss of program and time settings for at least 10 hours, if power is interrupted.

1513.6 Automatic Shut-Off Controls, Interior: Office buildings greater than ((25,000)) 5,000 sq. ft. and all school classrooms shall be equipped with separate automatic controls to shut off the lighting during unoccupied hours. Automatic



controls may be an occupancy sensor, time switch, or other device capable of automatically shutting off lighting.

- EXCEPTIONS:
1. Areas that must be continuously illuminated, or illuminated in a manner requiring manual operation of the lighting.
  2. Emergency lighting systems.
  3. Switching for industrial or manufacturing process facilities as may be required for production.

**1513.6.1 Occupancy Sensors:** Occupancy sensors shall be capable of automatically turning off all the lights in an area, no more than 30 minutes after the area has been vacated.

**1513.6.2 Automatic Time Switches:** Automatic time switches shall have a minimum 7 day clock and be capable of being set for 7 different day types per week and incorporate an automatic holiday "shut-off" feature, which turns off all loads for at least 24 hours and then resumes normally scheduled operations. Automatic time switches shall also have program back-up capabilities, which prevent the loss of program and time settings for at least 10 hours, if power is interrupted.

Automatic time switches shall incorporate an over-ride switching device which:

- a. is readily accessible;
- b. is located so that a person using the device can see the lights or the areas controlled by the switch, or so that the area being illuminated is annunciated; and
- c. is manually operated;
- d. allows the lighting to remain on for no more than two hours when an over-ride is initiated; and
- e. controls an area not exceeding 5,000 square feet or 5 percent of footprint for footprints over 100,000 square feet, whichever is greater.

**1513.7 Commissioning Requirements:** For lighting controls which include daylight or occupant sensing automatic controls, automatic shut-off controls, occupancy sensors, or automatic time switches, the lighting controls shall be tested to ensure that control devices, components, equipment and systems are calibrated, adjusted and operate in accordance with approved plans and specifications. Sequences of operation shall be functionally tested to ensure they operate in accordance with approved plans and specifications. A complete report of test procedures and results shall be prepared and filed with the owner. Drawing notes shall require commissioning in accordance with this paragraph.

**AMENDATORY SECTION** (Amending WSR 93-21-052, filed 10/18/93, effective 4/1/94)

**WAC 51-11-1521 Prescriptive interior lighting requirements.** Spaces for which the Unit Lighting Power Allowance in Table 15-1 is 0.8 watts per square foot or greater may use unlimited numbers of lighting fixtures and lighting energy, provided that the installed lighting fixtures ((are)) comply with all four of the following criteria:

- a. one- or two-lamp (but not three- or more lamp);
- b. non-lensed, fluorescent fixtures;
- c. fitted with type T-1, T-2, T-4, T-5, T-6, T-8 ((or PL type)) or compact fluorescent lamps from 5 to 50 watts (but not T-10 or T-12 lamps); and

d. electronic ballasts (electronic ballasts that screw into medium base sockets do not comply with this section).

- EXCEPTIONS:
1. Up to a total of 5 percent of installed lighting fixtures need not be ballasted and may use any type of lamp.
  2. Clear safety lenses are allowed in food prep and serving areas and patient care areas in otherwise compliant fixtures.
  3. Exit lights are not included in the count of fixtures provided that they do not exceed 5 watts per fixture and are light emitting diode (LED) type or T-1 fluorescent type only. (See the Uniform Fire Code for face illumination footcandle requirements and other requirements.)

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-1530 Lighting power allowance option.**

The installed lighting wattage shall not exceed the lighting power allowance. Lighting wattage includes lamp and ballast wattage. Wattage for fluorescent lamps and ballasts shall be tested per ANSI Standard C82.2-1984.

The wattage used for any unballasted fixture shall be the maximum UL listed wattage for that fixture regardless of the lamp installed. The wattage used for track lighting shall be:

- a. for line voltage track, 50 watts per lineal foot of track or actual luminaire wattage, whichever is greater
- b. for low voltage track, 25 watts per lineal foot of track or the VA rating of the transformer, whichever is greater.

No credit towards compliance with the lighting power allowances shall be given for the use of any controls, automatic or otherwise.

Exit lights that are 5 watts or less per fixture shall not be included in the lighting power allowance calculations. Other exit lights shall be included in the lighting power allowance calculations.

**AMENDATORY SECTION** (Amending WSR 93-21-052, filed 10/18/93, effective 4/1/94)

**WAC 51-11-1531 Interior lighting power allowance.**

The interior lighting power allowance shall be calculated by multiplying the gross interior floor area, in square feet, by the appropriate unit lighting power allowance, in watts per square foot, for the use as specified in Table 15-1. Accessory uses, including corridors, lobbies and toilet facilities shall be included with the primary use.

((If multiple uses are intended,)) The lighting power allowance for each ((type of)) use shall be separately calculated and summed to obtain the interior lighting power allowance.

In cases where a lighting plan for only a portion of a building is submitted, the interior lighting power allowance shall be based on the gross interior floor area covered by the plan. Plans submitted for common areas only, including corridors, lobbies and toilet facilities shall use the lighting power allowance for common areas in Table 15-1.

When insufficient information is known about the specific use of the space, the allowance shall be based on the apparent intended use of the space.

**AMENDATORY SECTION** (Amending WSR 93-21-052, filed 10/18/93, effective 4/1/94)

**WAC 51-11-1532 Exterior lighting power allowance.**

The exterior lighting power allowance shall be the sum of the calculated allowances for parking, outdoor areas and building exteriors. The lighting allowance for covered parking, open parking and outdoor areas that are illuminated shall be 0.20 watts per square foot. The lighting allowance for building exteriors shall be calculated either by multiplying the building facade area by 0.25 watts per square foot or multiplying the building perimeter in feet by 7.5 watts per linear foot.

- EXCEPTIONS:
1. Group ((M)) U occupancy accessory to Group R-3 occupancy.
  2. For covered parking, 0.30 w/sf may be used for the lighting provided that the ceilings and walls are painted or stained with a reflectance value of 0.70 or higher.

**TABLE 15-1**  
Unit Lighting Power Allowance (LPA)

Use <sup>1</sup>	LPA <sup>2</sup> (watts/sq. ft.)
Painting, welding, carpentry, machine shops	2.3
Barber shops, beauty shops	2.0
Hotel banquet/conference/exhibition hall <sup>3,4</sup>	2.0
Laboratories	2.0
Aircraft repair hangars	1.5
Cafeterias, fast food establishments <sup>5</sup>	1.5
Factories, workshops, handling areas	1.5
Gas stations, auto repair shops <sup>6</sup>	1.5
Institutions	1.5
Libraries <sup>5</sup>	1.5
Nursing homes <u>and hotel/motel guest rooms</u>	1.5
Retail <sup>10</sup> , retail banking	1.5
Wholesale stores (pallet rack shelving)	1.5
Mall concourses	1.4
Schools buildings ( <u>Group E occupancy only</u> ), school classrooms, day care centers	1.35
Laundries	1.3
Office buildings, office/administrative areas in facilities of other use types (including but not limited to schools, hospitals, institutions, museums, banks, churches) <sup>5,7,11</sup>	1.2
Police and fire stations <sup>8</sup>	1.2
Atria (atriums)	1.0
Assembly spaces <sup>9</sup> , auditoriums, gymnasia <sup>9</sup> , theaters	1.0
Group R-1 common areas	1.0

Use <sup>1</sup>	LPA <sup>2</sup> (watts/sq. ft.)
Process plants	1.0
Restaurants/bars <sup>5</sup>	1.0
<del>((Retail A<sup>10</sup></del>	<del>1.0</del>
<del>Retail B<sup>10</sup>, Retail banking</del>	<del>1.5</del>
Locker and/or shower facilities	0.8
Warehouses <sup>11</sup> , storage areas	0.5
Aircraft storage hangars	0.4
Parking garages	See Section 1532
<b>Plans Submitted for Common Areas Only<sup>7</sup></b>	
<del>((Common area, corridors, lobbies)) Main floor building lobbies<sup>3</sup> (except mall concourses)</del>	<del>((0.8))</del> <u>1.2</u>
<u>Common areas, corridors, toilet facilities and wash-rooms, elevator lobbies</u>	0.8

**Footnotes for Table 15-1**

1. In cases in which a general use and a specific use are listed, the specific use shall apply. In cases in which a use is not mentioned specifically, the *Unit Power Allowance* shall be determined by the building official. This determination shall be based upon the most comparable use specified in the table. See Section 1512 for exempt areas.
2. The watts per square foot may be increased, by two percent per foot of ceiling height above twenty feet, unless specifically directed otherwise by subsequent footnotes.
3. Watts per square foot of room may be increased by two percent per foot of ceiling height above twelve feet.
4. For all other spaces, such as seating and common areas, use the *Unit Light Power Allowance* for assembly.
5. Watts per square foot of room may be increased by two percent per foot of ceiling height above nine feet.
6. Includes pump area under canopy.
7. In cases in which a lighting plan is submitted for only a portion of a floor, a *Unit Lighting Power Allowance* of 1.35 may be used for usable office floor area and 0.80 watts per square foot shall be used for the common areas, which may include elevator space, lobby area and rest rooms. Common areas, as herein defined do not include mall concourses.
8. For the fire engine room, the *Unit Lighting Power Allowance* is 1.0 watts per square foot.
9. For indoor sport tournament courts with adjacent spectator seating, the *Unit Lighting Power Allowance* for the court area is 2.6 watts per square foot.
10. ~~((For both Retail A and Retail B, light))~~ Display window illumination installed within 2 feet of the window, lighting for free-standing display where the lighting moves with the display, and building showcase illumination ((and display window illumination installed within two feet of the window are exempt.

PERMANENT

*Retail A* allows a *Unit Lighting Power Allowance* of 1.0 watts per square foot. Ceiling-mounted adjustable tungsten-halogen and HID merchandise display illuminaries are exempt.

*Retail B* allows a *Unit Lighting Power Allowance* of 1.5 watts per square foot, including all ceiling-mounted merchandise display luminaries) where the lighting is enclosed within the showcase are exempt.

An additional 1.5 w/ft<sup>2</sup> of merchandise display luminaires are exempt provided that they comply with all three of the following:

(a) located on ceiling-mounted track or directly on or recessed into the ceiling itself (not on the wall).

(b) adjustable in both the horizontal and vertical axes (vertical axis only is acceptable for fluorescent and other fixtures with two points of track attachment).

(c) fitted with tungsten halogen, fluorescent, or high intensity discharge lamps.

This additional lighting power is allowed only if the lighting is actually installed.

11. Provided that a floor plan, indicating rack location and height, is submitted, the square footage for a warehouse may be defined, for computing the interior *Unit Lighting Power Allowance*, as the floor area not covered by racks plus the vertical face area (access side only) of the racks. The height allowance defined in footnote 2 applies only to the floor area not covered by racks.

## CHAPTER 17 STANDARDS

**Note:** For nonresidential standards, see chapter 7.

## CHAPTER 20 DEFAULT HEAT-LOSS COEFFICIENTS

**Note:** For nonresidential defaults, see chapter 10.

## REFERENCE STANDARD (~~COMMERCIAL~~) NON-RESIDENTIAL BUILDING DESIGN BY SYSTEMS ANALYSIS

**AMENDATORY SECTION** (Amending WSR 93-21-052, filed 10/18/93, effective 4/1/94)

### WAC 51-11-99902 Section 2—General principles and requirements.

**2.1 Energy Analysis:** Compliance with this Standard will require an analysis of the annual energy usage, hereinafter called an annual energy analysis.

A building designed in accordance with this Standard will be deemed as complying with this Code, if

- a. The calculated annual energy consumption is not greater than that of a corresponding "standard design," as defined below and in Section 3,

and;

b. Whose enclosure elements and energy-consuming systems comply with Sections 1310 through 1314, 1410 through ~~((1415))~~ 1416, 1440 through ~~((1442))~~ 1443, 1450 through 1454 and 1510 through 1513. Buildings shall only vary from those requirements in Sections 1330 through 1334, 1432 through ~~((1438))~~ 1439 and 1530 through 1532 where those variations have been accurately and completely modeled. Where variations are not specifically analyzed, the building shall comply with these requirements.

For a proposed building design to be considered similar to a "standard design," it shall utilize the same energy source(s) for the same functions and have equal floor area and the same ratio of envelope area to floor area, environmental requirements, occupancy, climate data and usage operational schedule. Inputs to the energy analysis relating to occupancy and usage shall correspond to the expected occupancy and usage of the building.

Except as noted below, the systems identified, and, to the extent possible, the assumptions made in assigning energy inputs to each system, shall be the same for the standard design and the proposed design. When electrically driven heat pumps, other than multiple units connected to a common water loop, are employed to provide all or part of the heat for the proposed design, the standard design shall also, for the purposes of the analysis, assume that electrically driven heat pump, in conformance with Chapter 14 of the Code and having capacity at least as great as those used in the proposed design are employed.

**2.2 Design:** The standard design and the proposed design shall be designed on a common basis as specified herein:

a. The comparison shall be expressed as kBtu input per square foot of conditioned floor area per year at the building site. Buildings which use electricity as the only fuel source, comparisons may be expressed in kWh. When converting electricity in kWh to kBtu a multiplier of 3.413 kWh/kBtu shall be used.

b. If the proposed design results in an increase in consumption of one energy source and a decrease in another energy source, even though similar sources are used for similar purposes, the difference in each energy source shall be converted to equivalent energy units for purposes of comparing the total energy used.

**2.3 Analysis Procedure:** The analysis of the annual energy usage of the standard and the proposed building and system design shall meet the following criteria:

a. The building heating/cooling load calculation procedure used for annual energy consumption analysis shall be detailed to permit the evaluation of effect of factors specified in Section 2.4.

b. The calculation procedure used to simulate the operation of the building and its service systems through a full-year operating period shall be detailed to permit the evaluation of the effect of system design, climatic factors, operational characteristics and mechanical equipment on annual energy usage. Manufacturer's data or comparable field test data shall be used when available in the simulation of systems and

equipment. The calculation procedure shall be based upon 8,760 hours of operation of the building and its service systems and shall utilize the design methods, specified in Standards RS-27, -11, -12 and -13 listed in Chapter 7 (~~and 17~~) of the Code or in other programs approved by the building official.

**2.4 Calculation Procedure:** The calculation procedure shall cover the following items:

a. Design requirements—Design heating conditions and design cooling conditions as defined in Chapter (~~42~~) 2 of the Code.

b. Climatic data—Coincident hourly data for temperatures, solar radiation, wind and humidity of typical days in the year representing seasonal variation.

c. Building data—Orientation, size, shape, mass, air and heat transfer characteristics.

d. Operational characteristics—Temperature, humidity, ventilation, illumination and control mode for occupied and unoccupied hours.

e. Mechanical equipment—Design capacity and part load profile.

f. Building loads—Internal heat generation, lighting, equipment and number of people during occupied and unoccupied periods.

**(EXCEPTION:** Proposed designs having an area of 25,000 square feet or less are exempt from the full year energy analysis described in section 2.3(b). However, comparison of energy consumption between the proposed design and the standard design shall be provided based on one of the programs suggested in Section 4.2 for these buildings.)

**2.5 Documentation:** All analyses submitted shall be accompanied by an energy analysis comparison report. The report shall provide technical detail on the two building and system designs and on the data used in and resulting from the comparative analysis to verify that both the analysis and the designs meet the criteria of Section 1.

The calculation procedure for the standard design and the proposed design shall separately identify the calculated annual energy consumption for each different occupancy type, if possible, for each of the following end uses:

- a. Interior lighting;
- b. Parking lighting;
- c. Exterior lighting;
- d. Space heating;
- e. Space cooling;
- f. Interior ventilation/fans;
- g. Parking ventilation/fans;
- h. Exhaust fans;
- i. Service water heating;
- j. Elevators;
- k. Appliances.

Energy consumption of the following items shall be included but is not required to be separated out by each individual item.

- a. Office equipment;
- b. Refrigeration other than comfort cooling;

- c. Cooking; and
- d. Any other energy-consuming equipment.

The specifications of the proposed building project used in the analysis shall be as similar as is reasonably practical to those in the plans submitted for a building permit.

**AMENDATORY SECTION** (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-99903 Section 3—Specific modeling assumptions.**

The specific modeling assumptions consist of methods and assumptions for calculating the standard energy consumption for the standard building and the proposed energy consumption of the proposed design. In order to maintain consistency between the standard and the proposed design energy consumptions, the input assumptions in this section shall be used.

"Prescribed" assumptions shall be used without variation. "Default" assumptions shall be used unless the designer can demonstrate that a different assumption better characterizes the building's use over its expected life. Any modification of a default assumption shall be used in modeling both the standard building and the proposed design unless the designer demonstrates a clear cause to do otherwise.

**3.1 Orientation and Shape:** The standard building shall consist of the same number of stories and gross floor area for each story as the proposed design. Each floor shall be oriented exactly as the proposed design. The geometric form shall be the same as the proposed design.

**3.2 Internal Loads:** Internal loads shall be modeled as noted in the following parts of Section 3.2. The systems specified for calculating the standard energy consumption in Section 3.2 are intended only as constraints in calculating the consumption. They are not intended as requirements or recommendations for systems to be used in the proposed building or for the calculation of the proposed energy consumption.

**3.2.1 Occupancy:** Occupancy schedules shall be default assumptions. The same assumptions shall be made in computing proposed energy consumption as were used in calculating the standard energy consumption. Occupancy levels vary by building type and time of day. Table 3-1 establishes the density presented as ft<sup>2</sup>/person of conditioned floor area that will be used by each building type. Table 3-2 establishes the percentage of the people that are in the building by hours of the day for each building type.

**3.2.2 Lighting:** The interior and exterior lighting power allowance for calculating the standard energy consumption shall be determined from Sections 1531 and 1532. The lighting power used to calculate the proposed energy consumption shall be the actual lighting power of the proposed lighting design. Exempt lighting in the standard design shall be equal to the exempt lighting in the proposed design.

Lighting levels in buildings vary based on the type of uses within buildings, by area and by time of day. Table 3-2

contains the lighting energy profiles which establish the percentage of the lighting load that is switched ON in each prototype or reference building by hour of the day. These profiles are default assumptions and can be changed if required when calculating the standard energy consumption to provide, for example, a 12 hour rather than an 8 hour work day or to reflect the use of automatic lighting controls. The lighting schedules used in the standard and proposed designs shall be identical and shall reflect the type of controls to be installed in the proposed design. The controls in the proposed design shall comply with the requirements in Section 1513 and no credit shall be given for the use of any additional controls, automatic or otherwise.

**3.2.3 Receptacle:** Receptacle loads and profiles are default assumptions. The same assumptions shall be made in calculating proposed energy consumption as were used in calculating the standard energy consumption. Receptacle loads include all general service loads that are typical in a building. These loads should include additional process electrical usage but exclude HVAC primary or auxiliary electrical usage. Table 3-1 establishes the density in W/ft<sup>2</sup> to be used. The receptacle energy profiles shall be the same as the lighting energy profiles in Table 3-2. This profile establishes the percentage of the receptacle load that is switched ON by hour of the day and by building type.

**3.3 Envelope**

**3.3.1 Insulation and Glazing:** Glazing area and U-factor of the standard building envelope shall be determined by using the Target UA requirements of Equation 13-1 and U-factor values in Table 13-1 or 13-2. The glazing solar heat gain coefficient (SHGC) or shading coefficient of the standard building shall be the lesser of 0.65 and the SHGC required by Table 13-1 or 13-2 for the vertical or overhead glazing area for the appropriate wall type. The opaque area U-factors of the standard building shall be determined by using the Target UA requirements from Equation 13-1 including the appropriate mass for walls. The insulation characteristics and glazing area are prescribed assumptions for the standard building for calculating the standard energy consumption. In the calculation of the proposed energy consumption of the proposed design, the envelope characteristics of the proposed design shall be used. The standard design shall use the maximum glazing areas listed in Tables 13-1 or 13-2 for the appropriate use. The distribution of vertical glazing in the gross wall area of the standard design shall be equal to the distribution of vertical glazing in the proposed design or shall constitute an equal percentage of gross wall area on all sides of the standard building. The distribution of overhead glazing in the gross roof/ceiling area of the standard design shall be equal to the distribution of overhead glazing in the proposed design. The distribution of doors in the gross opaque wall area of the standard design shall be identical to the distribution of doors in the proposed design.

**3.3.2 Infiltration:** For standard and proposed buildings, infiltration assumptions shall be equal.

**3.3.3 Envelope and Ground Absorptivities:** For the standard building, absorptivity assumptions shall be default assumptions for computing the standard energy consumption and default assumptions for computing the proposed energy consumption. The solar absorptivity of opaque elements of the building envelope shall be assumed to be 70 percent. The solar absorptivity of ground surfaces shall be assumed to be 80 percent (20 percent reflectivity).

**3.3.4 Window Treatment:** No draperies or blinds shall be modeled for the standard or proposed building.

**3.3.5 Shading:** For standard building and the proposed design, shading by permanent structures and terrain shall be taken into account for computing energy consumption whether or not these features are located on the building site. A permanent fixture is one that is likely to remain for the life of the proposed design. Credit may be taken for external shading devices that are part of the proposed design.

**3.4 HVAC Systems and Equipment:** For the standard building, the HVAC system used shall be the system type used in the proposed design. If the proposed HVAC system type does not comply with Sections 1432 through ~~(1438)~~ 1439, the standard design system shall comply in all respects with those sections.

**Exception:** When approved by the building official, a prototype HVAC system may be used, if the proposed design system cannot be modified to comply with Sections 1422 and 1432 through ~~(1438)~~ 1439, as a standard design. Use of prototype HVAC systems shall only be permitted for the building types listed below. For mixed-use buildings, the floor space of each building type is allocated within the floor space of the standard building. The specifications and requirements for the HVAC systems of prototype buildings shall be those in Table 3-3.

- |                         |                         |
|-------------------------|-------------------------|
| 1. assembly             | 6. restaurant           |
| 2. health/institutional | 7. retail (mercantile)  |
| 3. hotel/motel          | 8. school (educational) |
| 4. light manufacturing  | 9. warehouse (storage)  |
| 5. office (business)    |                         |

**3.4.1 HVAC Zones:** HVAC zones for calculating the standard energy consumption and proposed energy consumption shall consist of at least four perimeter and one interior zone per floor, with at least one perimeter zone facing each orientation. The perimeter zones shall be fifteen feet in width or one-third the narrow dimension of the building when this dimension is between 30 and 45 feet inclusive or half the narrow dimension of the building when this dimension is less than thirty feet.

**EXCEPTIONS:**

1. Building types such as assembly or warehouse may be modeled as a single zone if there is only one space.
2. Thermally similar zones, such as those facing one orientation on different floors, may be grouped together for the purposes of either the standard or proposed building simulation.

**3.4.2 Process Equipment Sizing:** Process sensible and latent loads shall be equal in calculating both the standard energy consumption and the proposed energy consumption. The designer shall document the installation of process equipment and the size of process loads.

PERMANENT

**3.4.3 HVAC Equipment Sizing:** The equipment shall be sized to include the capacity to meet the process loads. For calculating the proposed energy consumption, actual air flow rates and installed equipment size shall be used in the simulation. Equipment sizing in the simulation of the proposed design shall correspond to the equipment intended to be selected for the design and the designer shall not use equipment sized automatically by the simulation tool.

Equipment sizing for the standard design shall be based on the same as the proposed design or lesser sizing ratio of installed system capacity to the design load for heating and for cooling.

Chilled water systems for the standard building shall be modeled using a reciprocating chiller for systems with total cooling capacities less than 175 tons, and centrifugal chillers for systems with cooling capacities of 175 tons or greater. For systems with cooling capacities of 600 tons or more the standard energy consumption shall be calculated using two centrifugal chillers, lead/lag controlled. Chilled water shall be assumed to be controlled at a constant 44 degree F temperature rise, from 44 degrees F to 56 degrees F, operating at 65 percent combined impeller and motor efficiency. Condenser water pumps shall be sized using a 10 degree F temperature rise, operating at 60 percent combined impeller and motor efficiency. The cooling tower shall be an open circuit, centrifugal blower type sized for the larger of 85 degrees F leaving water temperature or 10 degrees F approach to design wet-bulb temperature. The tower shall be controlled to provide a 65 degrees F leaving water temperature whenever weather conditions permit, floating up to design leaving water temperature at design conditions.

**3.4.4 (~~Variable Speed~~) Fans:** The ~~((energy))~~ power of the combined fan system per air volume at design conditions (w/cfm) of the proposed design shall be equal to that of the standard design.

Variable air volume fan systems in the standard building shall be variable speed.

**3.5 Service Water Heating:** The service water heating loads for prototype buildings are defined in terms of Btu/person-hour in Table 3-1. The values in the table refer to energy content of the heated water. The service water heating loads from Table 3-1 are default for all buildings. The same service-water-heating load assumptions shall be made in calculating proposed energy consumption as were used in calculating the standard energy consumption. The service water heating system for the standard building shall be modeled as closely as possible as if it were designed in accordance with ~~((the ASHRAE Handbook, 1995 HVAC Systems and Applications Volume))~~ **RS-11** and meeting all the requirements of Sections 1440 through ~~((+442))~~ **1443**.

**3.6 Controls**

**3.6.1:** All occupied conditioned spaces in standard and proposed design buildings in all climates shall be simulated as being both heated and cooled.

EXCEPTIONS: 1. If a building or portion of a building is to be provided with only heating or cooling, both the standard build-

ing and the proposed design shall be simulated using the same assumptions.

2. If warehouses are not intended to be mechanically cooled, both the standard and proposed energy consumption shall be modeled assuming no mechanical cooling.

**3.6.2:** Space temperature controls for the standard building, shall be set at 70 degrees F for space heating and 75 degrees F for space cooling, with a deadband in accordance with Section 1412.2. The system shall be OFF during off-hours according to the appropriate schedule in Table 3-2, except that the heating system shall cycle ON if any space should drop below the night setback setting 55 degrees F. There shall be no similar setpoint during the cooling season. Lesser deadband ranges may be used in calculating the proposed energy consumption.

EXCEPTIONS: 1. Setback shall not be modeled in determining either the standard or proposed energy consumption if setback is not realistic for the proposed design such as a facility being operated 24 hours/day. For instance, health facilities need not have night setback during the heating season.  
2. If deadband controls are not to be installed, the proposed energy consumption shall be calculated with both heating and cooling thermostat setpoints set to the same value between 70 degrees F and 75 degrees F inclusive, assumed to be constant for the year.

**3.6.3:** When providing for outdoor air ventilation when calculating the standard energy consumption, controls shall be assumed to close the outside air intake to reduce the flow of outside air to 0.0 cfm during "setback" and "unoccupied" periods. Ventilation using inside air may still be required to maintain scheduled setback temperature. Outside air ventilation, during occupied periods, shall be as required by the Washington State Ventilation and Indoor Air Quality Code chapter 51-13 WAC.

**3.6.4:** If humidification is to be used in the proposed design, the same level of humidification and system type shall be used in the standard building.

**TABLE 3-1**  
**Acceptable Occupancy Densities, Receptacle Power Densities and Service Hot Water Consumption<sup>1</sup>**

Building Type	Occupancy Density <sup>2</sup> Sq. Ft./Person (Btu/h•ft <sup>2</sup> )	Receptacle Power Density <sup>3</sup> Watts/Sq. Ft. (Btu/h•ft <sup>2</sup> )	Service Hot Water Quantities <sup>4</sup> Btu/h•person
Assembly	50 (4.60)	0.25 (0.85)	215
Health/Institutional	200 (1.15)	1.00 (3.41)	135
Hotel/Motel	250 (0.92)	0.25 (0.85)	1,110
Light Manufacturing	750 (0.31)	0.20 (0.68)	225
Office	275 (0.84)	0.75 (2.56)	175
Parking Garage	N.A.	N.A.	N.A.
Restaurant	100 (2.30)	0.10 (0.34)	390
Retail	300 (0.77)	0.25 (0.85)	135
School	75 (3.07)	0.50 (1.71)	215
Warehouse	15,000 (0.02)	0.10 (0.34)	225

PERMANENT

- The occupancy densities, receptacle power densities and service hot water consumption values are from ASHRAE Standard 90.1-1989 and addenda.
- Values are in square feet of conditioned floor area per person. Heat generation in Btu per person per hour is 230 sensible and 190 latent. Figures in parentheses are equivalent Btu per hour per square foot.
- Values are in Watts per square foot of conditioned floor area. Figures in parentheses are equivalent Btu per hour per square foot. These values are the minimum acceptable. If other process loads are not input (such as for computers, cooking, refrigeration, etc.), it is recommended that receptacle power densities be increased until total process energy consumption is equivalent to 25% of the total.
- Values are in Btu per person per hour.

**TABLE 3-2A**  
**Assembly Occupancy<sup>1</sup>**

Hour of Day (time)	Schedule for Occupancy Percent of Maximum Load			Schedule for Lighting Receptacle Percent of Maximum Load			Schedule for HVAC System			Schedule for Service Hot Water Percent of Maximum Load			Schedule for Elevator Percent of Maximum Load		
	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun
1 (12-1am)	0	0	0	5	5	5	off	off	off	0	0	0	0	0	0
2 (1-2am)	0	0	0	5	5	5	off	off	off	0	0	0	0	0	0
3 (2-3am)	0	0	0	5	5	5	off	off	off	0	0	0	0	0	0
4 (3-4am)	0	0	0	5	5	5	off	off	off	0	0	0	0	0	0
5 (4-5am)	0	0	0	5	5	5	off	off	off	0	0	0	0	0	0
6 (5-6am)	0	0	0	5	5	5	on	off	off	0	0	0	0	0	0
7 (6-7am)	0	0	0	40	5	5	on	on	on	0	0	0	0	0	0
8 (7-8am)	0	0	0	40	30	30	on	on	on	0	0	0	0	0	0
9 (8-9am)	20	20	10	40	30	30	on	on	on	0	0	0	0	0	0
10 (9-10am)	20	20	10	75	50	30	on	on	on	5	5	5	0	0	0
11 (10-11am)	20	20	10	75	50	30	on	on	on	5	5	5	0	0	0
12 (11-12pm)	80	60	10	75	50	30	on	on	on	35	20	10	0	0	0
13 (12-1pm)	80	60	10	75	50	65	on	on	on	5	0	0	0	0	0
14 (1-2pm)	80	60	70	75	50	65	on	on	on	5	0	0	0	0	0
15 (2-3pm)	80	60	70	75	50	65	on	on	on	5	0	0	0	0	0
16 (3-4pm)	80	60	70	75	50	65	on	on	on	5	0	0	0	0	0
17 (4-5pm)	80	60	70	75	50	65	on	on	on	5	0	0	0	0	0
18 (5-6pm)	80	60	70	75	50	65	on	on	on	0	0	0	0	0	0
19 (6-7pm)	20	60	70	75	50	65	on	on	on	0	0	0	0	0	0
20 (7-8pm)	20	60	70	75	50	65	on	on	on	0	65	65	0	0	0
21 (8-9pm)	20	60	70	75	50	65	on	on	on	0	30	30	0	0	0
22 (9-10pm)	20	80	70	75	50	65	on	on	on	0	0	0	0	0	0
23 (10-11pm)	10	10	20	25	50	5	on	on	on	0	0	0	0	0	0
24 (11-12am)	0	0	0	5	5	5	off	off	off	0	0	0	0	0	0
Total/Day	710	750	700	1155	800	845	1800	1700	1700	70	125	115	0	0	0
Total/Week		50.50	hours		74.20	hours			124	hours		5.9	hours	0	hours
Total/Year		2633	hours		3869	hours			6465	hours		308	hours	0	hours

Wk= Weekday

- Schedules for occupancy, lighting, receptacle, HVAC system and service hot water are from ASHRAE Standard 90.1-1989 and addendums, except that 5% emergency lighting has been added for all off hours. Elevator schedules, except for restaurants, are from the U.S. Department of Energy Standard Evaluation Techniques except changed to 0% when occupancy is 0%. THESE VALUES MAY BE USED ONLY IF ACTUAL SCHEDULES ARE NOT KNOWN.

**TABLE 3-2B**  
**Health Occupancy<sup>1</sup>**

Hour of Day (time)	Schedule for Occupancy Percent of Maximum Load			Schedule for Lighting Receptacle Percent of Maximum Load			Schedule for HVAC System			Schedule for Service Hot Water Percent of Maximum Load			Schedule for Elevator Percent of Maximum Load		
	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun
1 (12-1am)	0	0	0	10	10	5	on	on	on	1	1	1	0	0	0
2 (1-2am)	0	0	0	10	10	5	on	on	on	1	1	1	0	0	0

PERMANENT

Hour of Day (time)	Schedule for Occupancy			Schedule for Lighting Receptacle			Schedule for HVAC System			Schedule for Service Hot Water			Schedule for Elevator		
	Percent of Maximum Load			Percent of Maximum Load						Percent of Maximum Load			Percent of Maximum Load		
	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun
3 (2-3am)	0	0	0	10	10	5	on	on	on	1	1	1	0	0	0
4 (3-4am)	0	0	0	10	10	5	on	on	on	1	1	1	0	0	0
5 (4-5am)	0	0	0	10	10	5	on	on	on	1	1	1	0	0	0
6 (5-6am)	0	0	0	10	10	5	on	on	on	1	1	1	0	0	0
7 (6-7am)	0	0	0	10	10	5	on	on	on	1	1	1	0	0	0
8 (7-8am)	10	10	0	50	20	5	on	on	on	17	1	1	2	2	0
9 (8-9am)	50	30	5	90	40	10	on	on	on	58	20	1	75	46	2
10 (9-10am)	80	40	5	90	40	10	on	on	on	66	28	1	100	70	2
11 (10-11am)	80	40	5	90	40	10	on	on	on	78	30	1	100	70	2
12 (11-12pm)	80	40	5	90	40	10	on	on	on	82	30	1	100	70	2
13 (12-1pm)	80	40	5	90	40	10	on	on	on	71	24	1	75	51	2
14 (1-2pm)	80	40	5	90	40	10	on	on	on	82	24	1	100	51	2
15 (2-3pm)	80	40	5	90	40	10	on	on	on	78	23	1	100	51	2
16 (3-4pm)	80	40	5	90	40	10	on	on	on	74	23	1	100	51	2
17 (4-5pm)	80	40	0	30	40	5	on	on	on	63	23	1	100	51	0
18 (5-6pm)	50	10	0	30	40	5	on	on	on	41	10	1	100	25	0
19 (6-7pm)	30	10	0	30	10	5	on	on	on	18	1	1	52	2	0
20 (7-8pm)	30	0	0	30	10	5	on	on	on	18	1	1	52	0	0
21 (8-9pm)	20	0	0	30	10	5	on	on	on	18	1	1	52	0	0
22 (9-10pm)	20	0	0	30	10	5	on	on	on	10	1	1	28	0	0
23 (10-11pm)	0	0	0	30	10	5	on	on	on	1	1	1	0	0	0
24 (11-12am)	0	0	0	10	10	5	on	on	on	1	1	1	0	0	0
Total/Day	850	380	40	1060	550	160	2400	2400	2400	783	249	24	1136	540	16
Total/Week		46.70	hours		60.10	hours				168	hours	41.88	hours	62.36	hours
Total/Year		2435	hours		3134	hours				8760	hours	2148	hours	3251	hours

Wk= Weekday

- Schedules for occupancy, lighting, receptacle, HVAC system and service hot water are from ASHRAE Standard 90.1-1989 and addendums, except that 5% emergency lighting has been added for all off hours. Elevator schedules, except for restaurants, are from the U.S. Department of Energy Standard Evaluation Techniques except changed to 0% when occupancy is 0%. THESE VALUES MAY BE USED ONLY IF ACTUAL SCHEDULES ARE NOT KNOWN.

TABLE 3-2C  
Hotel/Motel Occupancy<sup>1</sup>

Hour of Day (time)	Schedule for Occupancy			Schedule for Lighting Receptacle			Schedule for HVAC System			Schedule for Service Hot Water			Schedule for Elevator		
	Percent of Maximum Load			Percent of Maximum Load						Percent of Maximum Load			Percent of Maximum Load		
	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun
1 (12-1am)	90	90	70	20	20	30	on	on	on	20	20	25	40	44	55
2 (1-2am)	90	90	70	15	20	30	on	on	on	15	15	20	33	35	55
3 (2-3am)	90	90	70	10	10	20	on	on	on	15	15	20	33	35	43
4 (3-4am)	90	90	70	10	10	20	on	on	on	15	15	20	33	35	43
5 (4-5am)	90	90	70	10	10	20	on	on	on	20	20	20	33	35	43
6 (5-6am)	90	90	70	20	10	20	on	on	on	25	25	30	33	35	43
7 (6-7am)	70	70	70	40	30	30	on	on	on	50	40	50	42	40	52
8 (7-8am)	40	50	70	50	30	40	on	on	on	60	50	50	42	32	52
9 (8-9am)	40	50	50	40	40	40	on	on	on	55	50	50	52	45	65
10 (9-10am)	20	30	50	40	40	30	on	on	on	45	50	55	52	45	65
11 (10-11am)	20	30	50	25	30	30	on	on	on	40	45	50	40	42	53

PERMANENT



Hour of Day	Schedule for Occupancy			Schedule for Lighting Receptacle			Schedule for HVAC System			Schedule for Service Hot Water			Schedule for Elevator			
	Percent of Maximum Load			Percent of Maximum Load						Percent of Maximum Load			Percent of Maximum Load			
12 (11-12pm)	20	30	30	25	25	30	on	on	on	45	50	50	51	60	60	
13 (12-1pm)	20	30	30	25	25	30	on	on	on	40	50	40	51	65	53	
14 (1-2pm)	20	30	20	25	25	20	on	on	on	35	45	40	51	65	51	
15 (2-3pm)	20	30	20	25	25	20	on	on	on	30	40	30	51	65	50	
16 (3-4pm)	30	30	20	25	25	20	on	on	on	30	40	30	51	65	44	
17 (4-5pm)	50	30	30	25	25	20	on	on	on	30	35	30	63	65	64	
18 (5-6pm)	50	50	40	25	25	20	on	on	on	40	40	40	80	75	62	
19 (6-7pm)	50	60	40	60	60	50	on	on	on	55	55	50	86	80	65	
20 (7-8pm)	70	60	60	80	70	70	on	on	on	60	55	50	70	80	63	
21 (8-9pm)	70	60	60	90	70	80	on	on	on	50	50	40	70	75	63	
22 (9-10pm)	80	70	80	80	70	60	on	on	on	55	55	50	70	75	63	
23 (10-11pm)	90	70	80	60	60	50	on	on	on	45	40	40	45	55	40	
24 (11-12am)	90	70	80	30	30	30	on	on	on	25	30	20	45	55	40	
Total/Day	1390	1390	1300	855	785	810	2400	2400	2400	915	930	900	1217	1303	1287	
Total/Week		96.40	hours		58.70	hours			168.0	hours		64.05	hours		86.75	hours
Total/Year		5026	hours		3061	hours			8760	hours		3340	hours		4523	hours

Wk= Weekday

- Schedules for occupancy, lighting, receptacle, HVAC system and service hot water are from ASHRAE Standard 90.1-1989 and addendums, except that 5% emergency lighting has been added for all off hours. Elevator schedules, except for restaurants, are from the U.S. Department of Energy Standard Evaluation Techniques except changed to 0% when occupancy is 0%. THESE VALUES MAY BE USED ONLY IF ACTUAL SCHEDULES ARE NOT KNOWN.

**TABLE 3-2D**  
**Light Manufacturing Occupancy<sup>1</sup>**

Hour of Day (time)	Schedule for Occupancy			Schedule for Lighting Receptacle			Schedule for HVAC System			Schedule for Service Hot Water			Schedule for Elevator		
	Percent of Maximum Load			Percent of Maximum Load						Percent of Maximum Load			Percent of Maximum Load		
	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun
1 (12-1am)	0	0	0	5	5	5	off	off	off	5	5	4	0	0	0
2 (1-2am)	0	0	0	5	5	5	off	off	off	5	5	4	0	0	0
3 (2-3am)	0	0	0	5	5	5	off	off	off	5	5	4	0	0	0
4 (3-4am)	0	0	0	5	5	5	off	off	off	5	5	4	0	0	0
5 (4-5am)	0	0	0	5	5	5	off	off	off	5	5	4	0	0	0
6 (5-6am)	0	0	0	10	5	5	off	off	off	8	8	7	0	0	0
7 (6-7am)	10	10	5	10	10	5	on	on	off	7	7	4	0	0	0
8 (7-8am)	20	10	5	30	10	5	on	on	off	19	11	4	35	16	0
9 (8-9am)	95	30	5	90	30	5	on	on	off	35	15	4	69	14	0
10 (9-10am)	95	30	5	90	30	5	on	on	off	38	21	4	43	21	0
11 (10-11am)	95	30	5	90	30	5	on	on	off	39	19	4	37	18	0
12 (11-12pm)	95	30	5	90	30	5	on	on	off	47	23	6	43	25	0
13 (12-1pm)	50	10	5	80	15	5	on	on	off	57	20	6	58	21	0
14 (1-2pm)	95	10	5	90	15	5	on	on	off	54	19	9	48	13	0
15 (2-3pm)	95	10	5	90	15	5	on	on	off	34	15	6	37	8	0
16 (3-4pm)	95	10	5	90	15	5	on	on	off	33	12	4	37	4	0
17 (4-5pm)	95	10	5	90	15	5	on	on	off	44	14	4	46	5	0
18 (5-6pm)	30	5	5	50	5	5	on	on	off	26	7	4	62	6	0
19 (6-7pm)	10	5	0	30	5	5	on	off	off	21	7	4	20	0	0
20 (7-8pm)	10	0	0	30	5	5	on	off	off	15	7	4	12	0	0

PERMANENT

Hour of Day (time)	Schedule for Occupancy			Schedule for Lighting Receptacle			Schedule for HVAC System			Schedule for Service Hot Water			Schedule for Elevator		
	Percent of Maximum Load			Percent of Maximum Load			Percent of Maximum Load			Percent of Maximum Load			Percent of Maximum Load		
	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun
21 (8-9pm)	10	0	0	20	5	5	on	off	off	17	7	4	4	0	0
22 (9-10pm)	10	0	0	20	5	5	on	off	off	8	9	7	4	0	0
23 (10-11pm)	5	0	0	10	5	5	off	off	off	5	5	4	0	0	0
24 (11-12am)	5	0	0	5	5	5	off	off	off	5	5	4	0	0	0
Total/Day	920	200	60	1040	280	120	1600	1200	0	537	256	113	555	151	0
Total/Week		48.60	hours		56.00	hours		92.00	hours		30.54	hours		29.26	hours
Total/Year		2534	hours		2920	hours		4797	hours		1592	hours		1526	hours

Wk= Weekday

- Schedules for occupancy, lighting, receptacle, HVAC system and service hot water are from ASHRAE Standard 90.1-1989 and addendums, except that 5% emergency lighting has been added for all off hours. Elevator schedules, except for restaurants, are from the U.S. Department of Energy Standard Evaluation Techniques except changed to 0% when occupancy is 0%. THESE VALUES MAY BE USED ONLY IF ACTUAL SCHEDULES ARE NOT KNOWN.

**TABLE 3-2E**  
**Office Occupancy<sup>1</sup>**

Hour of Day (time)	Schedule for Occupancy			Schedule for Lighting Receptacle			Schedule for HVAC System			Schedule for Service Hot Water			Schedule for Elevator		
	Percent of Maximum Load			Percent of Maximum Load			Percent of Maximum Load			Percent of Maximum Load			Percent of Maximum Load		
	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun
1 (12-1am)	0	0	0	5	5	5	off	off	off	5	5	4	0	0	0
2 (1-2am)	0	0	0	5	5	5	off	off	off	5	5	4	0	0	0
3 (2-3am)	0	0	0	5	5	5	off	off	off	5	5	4	0	0	0
4 (3-4am)	0	0	0	5	5	5	off	off	off	5	5	4	0	0	0
5 (4-5am)	0	0	0	5	5	5	off	off	off	5	5	4	0	0	0
6 (5-6am)	0	0	0	10	5	5	off	off	off	8	8	7	0	0	0
7 (6-7am)	10	10	5	10	10	5	on	on	off	7	7	4	0	0	0
8 (7-8am)	20	10	5	30	10	5	on	on	off	19	11	4	35	16	0
9 (8-9am)	95	30	5	90	30	5	on	on	off	35	15	4	69	14	0
10 (9-10am)	95	30	5	90	30	5	on	on	off	38	21	4	43	21	0
11 (10-11am)	95	30	5	90	30	5	on	on	off	39	19	4	37	18	0
12 (11-12pm)	95	30	5	90	30	5	on	on	off	47	23	6	43	25	0
13 (12-1pm)	50	10	5	80	15	5	on	on	off	57	20	6	58	21	0
14 (1-2pm)	95	10	5	90	15	5	on	on	off	54	19	9	48	13	0
15 (2-3pm)	95	10	5	90	15	5	on	on	off	34	15	6	37	8	0
16 (3-4pm)	95	10	5	90	15	5	on	on	off	33	12	4	37	4	0
17 (4-5pm)	95	10	5	90	15	5	on	on	off	44	14	4	46	5	0
18 (5-6pm)	30	5	5	50	5	5	on	on	off	26	7	4	62	6	0
19 (6-7pm)	10	5	0	30	5	5	on	off	off	21	7	4	20	0	0
20 (7-8pm)	10	0	0	30	5	5	on	off	off	15	7	4	12	0	0
21 (8-9pm)	10	0	0	20	5	5	on	off	off	17	7	4	4	0	0
22 (9-10pm)	10	0	0	20	5	5	on	off	off	8	9	7	4	0	0
23 (10-11pm)	5	0	0	10	5	5	off	off	off	5	5	4	0	0	0
24 (11-12am)	5	0	0	5	5	5	off	off	off	5	5	4	0	0	0
Total/Day	920	200	60	1040	280	120	1600	1200	0	537	256	113	555	151	0
Total/Week		48.60	hours		56.00	hours		92.00	hours		30.54	hours		29.26	hours
Total/Year		2534	hours		2920	hours		4797	hours		1592	hours		1526	hours

PERMANENT

Wk= Weekday

- Schedules for occupancy, lighting, receptacle, HVAC system and service hot water are from ASHRAE Standard 90.1-1989 and addendums, except that 5% emergency lighting has been added for all off hours. Elevator schedules, except for restaurants, are from the U.S. Department of Energy Standard Evaluation Techniques except changed to 0% when occupancy is 0%. THESE VALUES MAY BE USED ONLY IF ACTUAL SCHEDULES ARE NOT KNOWN.

**TABLE 3-2F**  
**Parking Garage Occupancy<sup>1</sup>**

Hour of Day (time)	Schedule for Occupancy			Schedule for Lighting Receptacle			Schedule for HVAC System			Schedule for Service Hot Water			Schedule for Elevator		
	Percent of Maximum Load			Percent of Maximum Load						Percent of Maximum Load			Percent of Maximum Load		
	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun
1 (12-1am)				100	100	100									
2 (1-2am)				100	100	100									
3 (2-3am)				100	100	100									
4 (3-4am)				100	100	100									
5 (4-5am)				100	100	100									
6 (5-6am)				100	100	100									
7 (6-7am)				100	100	100									
8 (7-8am)				100	100	100									
9 (8-9am)				100	100	100									
10 (9-10am)				100	100	100			Based						
11 (10-11am)				100	100	100			on						
12 (11-12pm)		N/A		100	100	100			likely		N/A				
13 (12-1pm)				100	100	100			use						
14 (1-2pm)				100	100	100									
15 (2-3pm)				100	100	100									
16 (3-4pm)				100	100	100									
17 (4-5pm)				100	100	100									
18 (5-6pm)				100	100	100									
19 (6-7pm)				100	100	100									
20 (7-8pm)				100	100	100									
21 (8-9pm)				100	100	100									
22 (9-10pm)				100	100	100									
23 (10-11pm)				100	100	100									
24 (11-12am)				100	100	100									
Total/Day				2400	2400	2400									
Total/Week					168	hours									
Total/Year					8760	hours									

PERMANENT

Wk= Weekday

- Schedules for occupancy, lighting, receptacle, HVAC system and service hot water are from ASHRAE Standard 90.1-1989 and addendums, except that 5% emergency lighting has been added for all off hours. Elevator schedules, except for restaurants, are from the U.S. Department of Energy Standard Evaluation Techniques except changed to 0% when occupancy is 0%. THESE VALUES MAY BE USED ONLY IF ACTUAL SCHEDULES ARE NOT KNOWN.

**TABLE 3-2G**  
**Restaurant Occupancy<sup>1</sup>**

Hour of Day (time)	Schedule for Occupancy			Schedule for Lighting Receptacle			Schedule for HVAC System			Schedule for Service Hot Water			Schedule for Elevator		
	Percent of Maximum Load			Percent of Maximum Load						Percent of Maximum Load			Percent of Maximum Load		
	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun
1 (12-1am)	15	30	20	15	20	20	on	on	on	20	20	25	0	0	0
2 (1-2am)	15	25	20	15	15	15	on	on	on	15	15	20	0	0	0

Hour of Day (time)	Schedule for Occupancy			Schedule for Lighting Receptacle			Schedule for HVAC System			Schedule for Service Hot Water			Schedule for Elevator		
	Percent of Maximum Load			Percent of Maximum Load						Percent of Maximum Load			Percent of Maximum Load		
	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun
3 (2-3am)	5	5	5	15	15	15	on	on	on	15	15	20	0	0	0
4 (3-4am)	0	0	0	15	15	15	off	off	off	0	0	0	0	0	0
5 (4-5am)	0	0	0	15	15	15	off	off	off	0	0	0	0	0	0
6 (5-6am)	0	0	0	20	15	15	off	off	off	0	0	0	0	0	0
7 (6-7am)	0	0	0	40	30	30	off	off	off	0	0	0	0	0	0
8 (7-8am)	5	0	0	40	30	30	on	off	off	60	0	0	0	0	0
9 (8-9am)	5	0	0	60	60	50	on	off	off	55	0	0	0	0	0
10 (9-10am)	5	5	0	60	60	50	on	on	off	45	50	0	0	0	0
11 (10-11am)	20	20	10	90	80	70	on	on	on	40	45	50	0	0	0
12 (11-12pm)	50	45	20	90	80	70	on	on	on	45	50	50	0	0	0
13 (12-1pm)	80	50	25	90	80	70	on	on	on	40	50	40	0	0	0
14 (1-2pm)	70	50	25	90	80	70	on	on	on	35	45	40	0	0	0
15 (2-3pm)	40	35	15	90	80	70	on	on	on	30	40	30	0	0	0
16 (3-4pm)	20	30	20	90	80	70	on	on	on	30	40	30	0	0	0
17 (4-5pm)	25	30	25	90	80	60	on	on	on	30	35	30	0	0	0
18 (5-6pm)	50	30	35	90	90	60	on	on	on	40	40	40	0	0	0
19 (6-7pm)	80	70	55	90	90	60	on	on	on	55	55	50	0	0	0
20 (7-8pm)	80	90	65	90	90	60	on	on	on	60	55	50	0	0	0
21 (8-9pm)	80	70	70	90	90	60	on	on	on	50	50	40	0	0	0
22 (9-10pm)	50	65	35	90	90	60	on	on	on	55	55	50	0	0	0
23 (10-11pm)	35	55	20	50	50	50	on	on	on	45	40	40	0	0	0
24 (11-12am)	20	35	20	30	30	30	on	on	on	25	30	20	0	0	0
Total/Day	750	740	485	1455	1365	1115	2000	1800	1700	790	730	625	0	0	0
Total/Week		49.75	hours		97.55	hours		135	hours		53.05	hours		0	hours
Total/Year		2594	hours		5086	hours		7039	hours		2766	hours		0	hours

Wk= Weekday

- Schedules for occupancy, lighting, receptacle, HVAC system and service hot water are from ASHRAE Standard 90.1-1989 and addendums, except that 5% emergency lighting has been added for all off hours. Elevator schedules, except for restaurants, are from the U.S. Department of Energy Standard Evaluation Techniques except changed to 0% when occupancy is 0%. THESE VALUES MAY BE USED ONLY IF ACTUAL SCHEDULES ARE NOT KNOWN.

**TABLE 3-2H**  
**Retail Occupancy<sup>1</sup>**

Hour of Day (time)	Schedule for Occupancy			Schedule for Lighting Receptacle			Schedule for HVAC System			Schedule for Service Hot Water			Schedule for Elevator		
	Percent of Maximum Load			Percent of Maximum Load						Percent of Maximum Load			Percent of Maximum Load		
	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun
1 (12-1am)	0	0	0	5	5	5	off	off	off	4	11	7	0	0	0
2 (1-2am)	0	0	0	5	5	5	off	off	off	5	10	7	0	0	0
3 (2-3am)	0	0	0	5	5	5	off	off	off	5	8	7	0	0	0
4 (3-4am)	0	0	0	5	5	5	off	off	off	4	6	6	0	0	0
5 (4-5am)	0	0	0	5	5	5	off	off	off	4	6	6	0	0	0
6 (5-6am)	0	0	0	5	5	5	off	off	off	4	6	6	0	0	0
7 (6-7am)	0	0	0	5	5	5	on	on	off	4	7	7	0	0	0
8 (7-8am)	10	10	0	20	10	5	on	on	off	15	20	10	12	9	0
9 (8-9am)	20	20	0	50	30	10	on	on	on	23	24	12	22	21	0
10 (9-10am)	50	50	10	90	60	10	on	on	on	32	27	14	64	56	11
11 (10-11am)	50	60	20	90	90	40	on	on	on	41	42	29	74	66	13

PERMANENT

Hour of Day	Schedule for Occupancy			Schedule for Lighting Receptacle			Schedule for HVAC System			Schedule for Service Hot Water			Schedule for Elevator		
	Percent of Maximum Load			Percent of Maximum Load						Percent of Maximum Load			Percent of Maximum Load		
12 (11-12pm)	70	80	20	90	90	40	on	on	on	57	54	31	68	68	35
13 (12-1pm)	70	80	40	90	90	60	on	on	on	62	59	36	68	68	37
14 (1-2pm)	70	80	40	90	90	60	on	on	on	61	60	36	71	69	37
15 (2-3pm)	70	80	40	90	90	60	on	on	on	50	49	34	72	70	39
16 (3-4pm)	80	80	40	90	90	60	on	on	on	45	48	35	72	69	41
17 (4-5pm)	70	80	40	90	90	60	on	on	on	46	47	37	73	66	38
18 (5-6pm)	50	60	20	90	90	40	on	on	off	47	46	34	68	58	34
19 (6-7pm)	50	20	10	60	50	20	on	on	off	42	44	25	68	47	3
20 (7-8pm)	30	20	0	60	30	5	on	on	off	34	36	27	58	43	0
21 (8-9pm)	30	20	0	50	30	5	on	on	off	33	29	21	54	43	0
22 (9-10pm)	0	10	0	20	10	5	off	on	off	23	22	16	0	8	0
23 (10-11pm)	0	0	0	5	5	5	off	off	off	13	16	10	0	0	0
24 (11-12am)	0	0	0	5	5	5	off	off	off	8	13	6	0	0	0
Total/Day	720	750	280	1115	985	525	1500	1600	900	662	690	459	844	761	288
Total/Week	46.30 hours			70.85 hours			100 hours			44.59 hours			52.69 hours		
Total/Year	2414 hours			3694 hours			5214 hours			2325 hours			2747 hours		

Wk= Weekday

- Schedules for occupancy, lighting, receptacle, HVAC system and service hot water are from ASHRAE Standard 90.1-1989 and addendums, except that 5% emergency lighting has been added for all off hours. Elevator schedules, except for restaurants, are from the U.S. Department of Energy Standard Evaluation Techniques except changed to 0% when occupancy is 0%. THESE VALUES MAY BE USED ONLY IF ACTUAL SCHEDULES ARE NOT KNOWN.

TABLE 3-2I  
School Occupancy<sup>1</sup>

Hour of Day (time)	Schedule for Occupancy			Schedule for Lighting Receptacle			Schedule for HVAC System			Schedule for Service Hot Water			Schedule for Elevator		
	Percent of Maximum Load			Percent of Maximum Load						Percent of Maximum Load			Percent of Maximum Load		
	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun
1 (12-1am)	0	0	0	5	5	5	off	off	off	5	3	3	0	0	0
2 (1-2am)	0	0	0	5	5	5	off	off	off	5	3	3	0	0	0
3 (2-3am)	0	0	0	5	5	5	off	off	off	5	3	3	0	0	0
4 (3-4am)	0	0	0	5	5	5	off	off	off	5	3	3	0	0	0
5 (4-5am)	0	0	0	5	5	5	off	off	off	5	3	3	0	0	0
6 (5-6am)	0	0	0	5	5	5	off	off	off	5	3	3	0	0	0
7 (6-7am)	0	0	0	5	5	5	off	off	off	5	3	3	0	0	0
8 (7-8am)	5	0	0	30	5	5	on	off	off	10	3	3	0	0	0
9 (8-9am)	75	10	0	85	15	5	on	on	off	34	3	5	30	0	0
10 (9-10am)	90	10	0	95	15	5	on	on	off	60	5	5	30	0	0
11 (10-11am)	90	10	0	95	15	5	on	on	off	63	5	5	30	0	0
12 (11-12pm)	80	10	0	95	15	5	on	on	off	72	5	5	30	0	0
13 (12-1pm)	80	10	0	80	15	5	on	on	off	79	5	5	30	0	0
14 (1-2pm)	80	0	0	80	5	5	on	off	off	83	3	5	30	0	0
15 (2-3pm)	80	0	0	80	5	5	on	off	off	61	3	3	30	0	0
16 (3-4pm)	45	0	0	70	5	5	on	off	off	65	3	3	15	0	0
17 (4-5pm)	15	0	0	50	5	5	on	off	off	10	3	3	0	0	0
18 (5-6pm)	5	0	0	50	5	5	on	off	off	10	3	3	0	0	0
19 (6-7pm)	15	0	0	35	5	5	on	off	off	19	3	3	0	0	0
20 (7-8pm)	20	0	0	35	5	5	on	off	off	25	3	3	0	0	0
21 (8-9pm)	20	0	0	35	5	5	on	off	off	22	3	3	0	0	0

PERMANENT

Hour of Day (time)	Schedule for Occupancy			Schedule for Lighting Receptacle			Schedule for HVAC System			Schedule for Service Hot Water			Schedule for Elevator		
	Percent of Maximum Load			Percent of Maximum Load						Percent of Maximum Load			Percent of Maximum Load		
	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun
22 (9-10pm)	10	0	0	30	5	5	on	off	off	22	3	3	0	0	0
23 (10-11pm)	0	0	0	5	5	5	off	off	off	12	3	3	0	0	0
24 (11-12am)	0	0	0	5	5	5	off	off	off	9	3	3	0	0	0
Total/Day	710	50	0	990	170	120	1500	500	0	691	80	84	285	0	0
Total/Week		36.00	hours		52.40	hours		80.00	hours		36.19	hours		14.25	hours
Total/Year		1877	hours		2732	hours		4171	hours		1887	hours		743	hours

Wk= Weekday

1. Schedules for occupancy, lighting, receptacle, HVAC system and service hot water are from ASHRAE Standard 90.1-1989 and addendums, except that 5% emergency lighting has been added for all off hours. Elevator schedules, except for restaurants, are from the U.S. Department of Energy Standard Evaluation Techniques except changed to 0% when occupancy is 0%. THESE VALUES MAY BE USED ONLY IF ACTUAL SCHEDULES ARE NOT KNOWN.

**TABLE 3-2J**  
**Warehouse Occupancy<sup>1</sup>**

Hour of Day (time)	Schedule for Occupancy			Schedule for Lighting Receptacle			Schedule for HVAC System			Schedule for Service Hot Water			Schedule for Elevator		
	Percent of Maximum Load			Percent of Maximum Load						Percent of Maximum Load			Percent of Maximum Load		
	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun	Wk	Sat	Sun
1 (12-1am)	0	0	0	5	5	5	off	off	off	2	2	2	0	0	0
2 (1-2am)	0	0	0	5	5	5	off	off	off	2	2	2	0	0	0
3 (2-3am)	0	0	0	5	5	5	off	off	off	2	2	2	0	0	0
4 (3-4am)	0	0	0	5	5	5	off	off	off	2	2	2	0	0	0
5 (4-5am)	0	0	0	5	5	5	off	off	off	5	2	2	0	0	0
6 (5-6am)	0	0	0	5	5	5	off	off	off	7	2	2	0	0	0
7 (6-7am)	0	0	0	5	5	5	off	off	off	7	2	2	0	0	0
8 (7-8am)	15	0	0	40	5	5	on	off	off	10	2	2	0	0	0
9 (8-9am)	70	20	0	70	8	5	on	on	off	30	6	2	0	0	0
10 (9-10am)	90	20	0	90	24	5	on	on	off	36	12	2	0	0	0
11 (10-11am)	90	20	0	90	24	5	on	on	off	36	12	2	30	0	0
12 (11-12pm)	90	20	0	90	24	5	on	on	off	46	17	2	0	0	0
13 (12-1pm)	50	10	0	80	5	5	on	on	off	57	4	4	0	0	0
14 (1-2pm)	85	10	0	90	5	5	on	on	off	43	4	4	0	0	0
15 (2-3pm)	85	10	0	90	5	5	on	on	off	38	2	2	0	0	0
16 (3-4pm)	85	10	0	90	5	5	on	on	off	40	2	2	40	0	0
17 (4-5pm)	20	0	0	90	5	5	on	off	off	30	2	2	0	0	0
18 (5-6pm)	0	0	0	30	5	5	off	off	off	18	2	2	0	0	0
19 (6-7pm)	0	0	0	5	5	5	off	off	off	3	2	2	0	0	0
20 (7-8pm)	0	0	0	5	5	5	off	off	off	3	2	2	0	0	0
21 (8-9pm)	0	0	0	5	5	5	off	off	off	3	2	2	0	0	0
22 (9-10pm)	0	0	0	5	5	5	off	off	off	3	2	2	0	0	0
23 (10-11pm)	0	0	0	5	5	5	off	off	off	3	2	2	0	0	0
24 (11-12am)	0	0	0	5	5	5	off	off	off	3	2	2	0	0	0
Total/Day	680	120	0	915	180	120	1000	800	0	429	91	52	70	0	0
Total/Week		35.20	hours		48.75	hours		58.00	hours		22.88	hours		3.50	hours
Total/Year		1835	hours		2542	hours		3024	hours		1193	hours		182	hours

PERMANENT

Wk= Weekday

- Schedules for occupancy, lighting, receptacle, HVAC system and service hot water are from ASHRAE Standard 90.1-1989 and addendums, except that 5% emergency lighting has been added for all off hours. Elevator schedules, except for restaurants, are from the U.S. Department of Energy Standard Evaluation Techniques except changed to 0% when occupancy is 0%. THESE VALUES MAY BE USED ONLY IF ACTUAL SCHEDULES ARE NOT KNOWN.

**TABLE 3-3**

**HVAC Systems of Prototype Buildings<sup>3</sup>**

Use	System #	Remarks
1. Assembly		
a. Churches (any size)	1	
b. ≤ 50,000 ft <sup>2</sup> or ≤ 3 floors	1 or 3	Note 2
c. > 50,000 ft <sup>2</sup> or > 3 floors	3	
2. Health		
a. Nursing Home (any size)	2	
b. ≤ 15,000 ft <sup>2</sup>	1	
c. > 15,000 ft <sup>2</sup> and ≤ 50,000 ft <sup>2</sup>	4	Note 3
d. > 50,000 ft <sup>2</sup>	5	Note 3,4
3. Hotel/Motel		
a. ≤ 3 Stories	2	Note 6
b. > 3 Stories	6	Note 7
4. Light Manufacturing	1 or 3	
5. Office		
a. ≤ 20,000 ft <sup>2</sup>	1	
b. > 20,000 ft <sup>2</sup> and either ≤ 3 floors or ≤ 75,000 ft <sup>2</sup>	4	
c. > 75,000 ft <sup>2</sup> or > 3 floors	5	
6. Restaurant	1 or 3	Note 2
7. Retail		
a. ≤ 50,000 ft <sup>2</sup>	1 or 3	Note 2
b. > 50,000 ft <sup>2</sup>	4 or 5	Note 2
8. Schools		
a. ≤ 75,000 ft <sup>2</sup> or ≤ 3 floors	1	
b. > 75,000 ft <sup>2</sup> or > 3 floors	3	
9. Warehouse		Note 5

Footnote to TABLE 3-3: The system and energy types presented in this table are not intended as requirements or recommendations for the proposed design. Floors areas in the table are the total conditioned floor areas for the listed use in the building. The number of floors indicated in the table is the total number of occupied floors for the listed use.

**TABLE 3-3 (cont.)**

**HVAC System Descriptions for Prototype Buildings<sup>1</sup>**

HVAC Component	System #1	System #2
System Description	Packaged rooftop single zone, one unit per zone.	Packaged terminal air conditioner with space heater or heat pump, heating or cooling unit per zone.
Fan System		
Design Supply Circulation Rate	Note 10	Note 11
Supply Fan Control	Constant volume.	Fan cycles with call for heating or cooling.
Return Fan Control	N.A.	N.A.
Cooling System	Direct expansion air cooled	Direct expansion air cooled.

HVAC Component	System #1	System #2
Heating System	Furnace, heat pump, or electric resistance.	Heat pump with electric resistance auxiliary or air conditioner with space heater.
Remarks	Drybulb economizer per Section 1433, heat recovery if required by Section 1436.	No economizer, if not required by Section 1433.

**TABLE 3-3 (cont.)**

**HVAC Systems Descriptions for Prototype Buildings<sup>1</sup>**

HVAC Component	System #3	System #4
System Description	Air handler per zone with central plant.	Packaged rooftop VAV with perimeter reheat and fan-powered terminal units.
Fan System		
Design Supply Circulation Rate	Note 10	Note 10
Supply Fan Control	Constant volume.	VAV with forward curved centrifugal fan and variable inlet fans.
Return Fan Control	Constant volume.	VAV with forward curved centrifugal fan and discharge dampers.
Cooling System	Chilled water (Note 12)	Direct expansion air cooled.
Heating System	Hot water (Note 13)	Hot water (Note 13) or electric resistance.
Remarks	Drybulb economizer per Section 1433, heat recovery if required by Section 1436.	Drybulb economizer per Section 1433. Minimum VAV setting per Section 1435 Exception 1, Supply air reset by zone of greatest cooling demand, heat recovery if required by Section 1436.

**TABLE 3-3 (cont.)**

**HVAC System Descriptions for Prototype Buildings<sup>1</sup>**

HVAC Component	System #5	System #6
System Description	Built-up central VAV with perimeter reheat and fan-powered terminal units	Four-pipe fan coil per zone with central plant.
Fan System		
Design Supply Circulation Rate	Note 10	Note 10
Supply Fan Control	VAV with air-foil centrifugal fan and AC frequency variable speed drive.	Fan cycles with call for heating or cooling.

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HVAC Component	System #5	System #6
Return Fan Control	VAV with air-foil centrifugal fan and AC frequency variable speed drive.	NA
Cooling System	Chilled water (Note 12)	Chilled water (Note 12)
Heating System	Hot water (Note 13) or electric resistance.	Hot water (Note 13) or electric resistance.
Remarks	Drybulb economizer per Section 1433. Minimum VAV setting per Section 1435 Exception 1, Supply air rest by zone of greatest cooling demand, heat recovery if required by Section 1436.	No economizer, if not required by Section 1433.

Numbered Footnotes for TABLE 3-3  
HVAC System Descriptions for Prototype Buildings

- The systems and energy types presented in this Table are not intended as requirements or recommendations for the proposed design.
- For occupancies such as restaurants, assembly and retail that are part of a mixed use building which, according to Table 3-3, includes a central chilled water plant (systems 3, 5, or 6), chilled water system type 3 or 5 shall be used as indicated in the table.
- Constant volume may be used in zones where pressurization relationships must be maintained by code. Where constant volume is used, the system shall have heat recovery if required by Section 1436. VAV shall be used in all other areas, in accordance with Sections 1432 through ~~((1438))~~ 1439.
- Provide run-around heat recovery systems for all fan systems with a minimum outside air intake greater than 70%. Recovery effectiveness shall be 0.50.
- If a warehouse is not intended to be mechanically cooled, both the standard and proposed designs shall be calculated assuming no mechanical cooling.
- The system listed is for guest rooms only. Areas such as public areas and back-of-house areas shall be served by system 4. Other areas such as offices and retail shall be served by systems listed in Table 3-3 for these occupancy types.
- The system listed is for guest rooms only. Areas such as public areas and back-of-house areas shall be served by system 5. Other areas such as offices and retail shall be served by systems listed in Table 3-3 for these occupancy types.
- Reserved.
- Reserved.
- Design supply air circulation rate shall be based on a supply-air-to-room air temperature difference of 20°F. A higher supply air temperature may be used if required to maintain a minimum circulation rate of 4.5 air changes per hour or 15 cfm per person to each zone served by the system, at design conditions. If return fans are specified, they shall be sized for the supply fan capacity less the required minimum ventilation with

outside air, or 75% of the supply fan capacity, whichever is larger. Except where noted, supply and return fans shall be operated continuously during occupied hours.

- Fan energy when included in the efficiency rating of the unit as defined in Section 1411, need not be modeled explicitly for this system. The fan shall cycle with calls for heating or cooling.
- Chilled water systems shall be modeled using a reciprocating chiller for systems with total cooling capacities less than 175 tons, and centrifugal chillers for systems with cooling capacities of 175 tons or greater. For systems with cooling capacities of 600 tons or more, the standard design energy consumption shall be calculated using two centrifugal chillers, lead/lag controlled. Chilled water shall be assumed to be controlled at a constant 44°F. Chiller water pumps shall be sized using a 12°F temperature rise, from 44°F to 56°F, operating at 65% combined impeller and motor efficiency. Condenser water pumps shall be sized using a 10°F temperature rise, operating at 60% combined impeller and motor efficiency. The cooling tower shall be an open circuit, centrifugal blower type sized for the larger of 85°F leaving water temperature or 10°F approach to design wetbulb temperature. The tower shall be controlled to provide a 65°F leaving water temperature whenever weather conditions permit, floating up to design leaving water temperatures at design conditions. Chilled water supply temperature shall be reset in accordance with Section 1432.2.2.
- Hot water system shall include a natural draft fossil fuel or electric boiler. The hot water pump shall be sized based on a 30°F temperature drop, from 180°F to 150°F, operating at a combined impeller and motor efficiency of 60%. Hot water supply temperature shall be reset in accordance with Section 1432.2.2.

AMENDATORY SECTION (Amending WSR 98-03-003, filed 1/8/98, effective 7/1/98)

**WAC 51-11-99904 Section 4—Suggested software for systems analysis approach.**

~~((4.1 Programs Acceptable for Projects for Full-Year Hourly Analysis))~~

Program Name	Source
<del>((ADM-DOE</del>	ADM Associates 3239 Ramos Circle Sacramento, CA 95827 916-363-8383))

PERMANENT



PERMANENT

**Program Name**                      **Source**

**Blast 3.0 (Level ((193) 334))**                      Blast Support Office  
University of Illinois  
Dept. of Mechanical and Industrial Engineering  
1206 W. Green Street,  
Room ((30)) 140, MEB  
Urbana, IL 61801  
((1-800-842-5278))  
(217) 244-8182

**DOE 2.1E**                      Energy Science and Technology  
Software Center (ESTSC)  
PO Box 1220  
Oakridge, TN 37831-1020  
423-576-2606

**DOE 2.1E or DOE 2.2**                      James J. Hirsch & Associates  
Building Performance Analysis  
Software & Consulting  
12185 Presilla Road  
Camarillo, CA 93012-9243  
(805) 532-1045

**EnergyPlus**                      Kathy Ellington  
Lawrence Berkeley National Laboratory (LBNL)  
Building 90, Room 3147  
Berkeley, CA 94720-0001  
(510) 486-5711

**ESAS**                      Ross Meriweather  
Consulting, Engineering  
3315 Outrider  
San Antonio, TX 78247-4405  
210-490-7081

**ESP-II**                      Automated Procedures for Engineering Consultants, Inc.  
40 W. 4th Centre, Suite 2100  
Dayton, OH 45402  
937-228-2602

**HAP ((2-02)) 3.24**                      Carrier Building Systems and Services  
3215 South 116th St., Suite 133  
Tukwila, WA 98168  
(206)-439-0097

**((MICRO-DOE2**                      ~~ACROSFT/CAER~~  
~~1204 1/2 Washington Avenue~~  
~~Golden, CO 80401~~  
~~303-279-8136))~~

**Trace 600 Version ((16-08)) 18.11 or Trace 700**                      The Trane Co.  
3600 Pammel Creek Rd.  
Lacrosse, WI 54601  
608-787-3926

**Program Name**                      **Source**

**ADM.2**                      ADM Associates  
3239 Ramos Circle  
Sacramento, CA 95827  
916-363-8383

**ASEAM**                      U.S. Department of Energy  
Clearinghouse  
1(800) DOE-EREC (363-3732)

**Building Energy Analysis and Easy-DOE**                      Elite Software  
PO Drawer 1194  
Bryan, TX 77806  
409-846-2340

**ESE**                      Sea Gate  
5100 W. 82nd St., Suite 204  
Bloomington, MN 55437  
612-844-8000

**Market Manager**                      SRC Systems  
2855 Telegraph Ave., Suite 410  
Berkeley, CA 94705  
510-848-8400

**XENCAP 4.5**                      XENERGY  
492 9th Street, Suite 220  
Oakland, CA 94607  
510-891-0446))

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 51-11-1201                      Scope.
- WAC 51-11-1210                      Application of terms.
- WAC 51-11-1701                      Scope.
- WAC 51-11-2000                      Default heat-loss coefficients.
- WAC 51-11-2001                      General.
- WAC 51-11-2002                      Below grade walls and slabs.
- WAC 51-11-2003                      On-grade slab floors.
- WAC 51-11-2004                      Floors over unconditioned space.
- WAC 51-11-2005                      Above grade walls.
- WAC 51-11-2006                      Default U-factors for glazing and doors.
- WAC 51-11-2007                      Ceilings.
- WAC 51-11-2008                      Reserved.
- WAC 51-11-2009                      Mass.

~~((4.2 Programs only Acceptable for Commercial Buildings 25,000 Square Feet or Less~~

**WSR 01-03-011**  
**PERMANENT RULES**  
**BOARD OF ACCOUNTANCY**

[Filed January 5, 2001, 12:00 a.m., effective June 30, 2001]

Date of Adoption: January 3, 2001.

Purpose: To establish experience as an entrance requirement for obtaining an initial license to practice public accounting as a certified public accountant (CPA).

Citation of Existing Rules Affected by this Order: Amending WAC 4-25-730 What are the experience requirements in order to obtain a CPA license?

Statutory Authority for Adoption: RCW 18.04.215.

Adopted under notice filed as WSR 00-23-091 on November 20, 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 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: June 30, 2001.

January 3, 2001

Dana M. McInturff, CPA  
Executive Director

**AMENDATORY SECTION** (Amending WSR 99-18-113, filed 9/1/99, effective 1/1/00)

**WAC 4-25-730 ((Experience.)) What are the experience requirements in order to obtain a CPA license?**

((Experience required for issuance of an initial license shall meet the requirements of this section:

~~(1) **Experience definition and timing:** One year of experience shall consist of full-time employment of no less than two thousand hours. For purposes of computing work experience for a part-time employee, two thousand hours shall constitute one year. Employment may be for one or more employers, with or without compensation, and may consist of any combination of full-time and part-time employment. For an applicant who passed the uniform certified public accounting examination prior to May 1988, experience obtained more than five years prior to application for initial license shall be supplemented by one hundred twenty hours of continuing education during the three-year period prior to application. For an applicant who passed the examination in May 1988, or thereafter, this experience must cover a minimum twelve-month period and must be obtained no more than five years prior to applying for a license.~~

~~(2) **Experience in public accounting:**~~

~~(a) An applicant shall show he/she has had employment for a period of one year as a staff accountant under the direct supervision of a currently licensed certified public accountant who is actively engaged in the practice of public accounting and is a member of a firm licensed to practice public accounting. Experience shall be in a CPA firm that participates in a board approved peer or quality review of its accounting or auditing practice. Qualifying experience for purposes of this section shall mean the performance of services as one skilled in the knowledge and practice of public accounting, including performance of accounting or auditing procedures, issuance of reports on financial statements, performance of management advisory or other consulting services, preparation of tax returns and furnishing advice on tax matters.~~

~~(b) Public accounting services shall be performed for clients of a certified public accountant or a firm of certified public accountants in compliance with the board's rules and must regularly involve the exercise of independent judgment and the application of appropriate technical and behavioral standards such as the standards contained in the Code of Professional Ethics, Generally Accepted Auditing Standards, Statement of Responsibilities in Tax Practice, Statement on Standards for Management Advisory Services, Statement on Standards for Accounting and Review Services, Statement on Standards for Attestation Engagements and other similar practice standards issued by the American Institute of Certified Public Accountants.~~

~~(3) **Experience other than in public accounting:**~~

~~(a) The experience required, as stated in subsection (2) of this section, may also be met by work experience, not including in-classroom training, performed under the direct supervision of a currently licensed certified public accountant in a commercial or governmental organization which has filed a sponsorship agreement with the board, acceptable to the board, which among other things specifies:~~

- ~~(i) The scope of accounting, auditing, consulting, and other services performed within the organization;~~
- ~~(ii) The professional education and on-job training provided to an applicant prior to application; and~~
- ~~(iii) The program of review and supervision performed by the internal review committee within the organization which administers the agreement.~~

~~(b) Qualifying work experience must be of a type and at a level equivalent to that performed in public accounting practice and must regularly involve the exercise of independent judgment and the application of the appropriate technical and behavioral standards.~~

~~(4) **Experience affidavit:** The experience claimed by an applicant shall be verified by the certified public accountant or firm of certified public accountants supervising the applicant on an experience affidavit form provided by the board.~~

~~(5) **Examination of experience documentation:**~~

~~(a) Any licensee who has furnished evidence of an applicant's experience to the board shall upon request by the board explain in writing or in person the information so provided.~~

~~(b) The board may require an interview or an inspection of documentation relating to an applicant's experience. Any licensee having custody of such documentation shall produce it upon request by the board.~~

(e) ~~Any licensee who refuses to provide the evidence or documentation of the applicant's experience, requested by an applicant or by the board, shall upon request by the board explain in writing or in person the basis for such refusal.~~

(6) **Reciprocity:** ~~An applicant who applies for initial license in this state shall be required to document experience obtained in another jurisdiction which is equivalent to the requirements of this state.)~~ Qualifying experience may be obtained through:

- The practice of public accounting in a CPA firm that participates in a board approved peer or quality review program;

- Other employment provided you obtain the competencies defined by subsection (2)(a) of this section; or

- A combination of the two alternatives listed above provided you obtain the competencies defined by subsection (2)(a) of this section.

For both full-time and part-time employment, your experience must:

- Cover a minimum twelve-month period;
- Consist of at least two thousand hours; and
- Be obtained no more than eight years prior to applying for an initial license.

Your experience may be obtained through one or more employers, with or without compensation, and may consist of a combination of full-time and part-time employment.

(1) Public accounting experience: You may obtain all or a portion of your qualifying experience through employment in a licensed CPA firm that participates in a board approved peer or quality review program. Your experience must be:

- (a) Obtained through performing services that meet the definition of the practice of public accounting as defined by RCW 18.04.025(5); and

- (b) Under the supervision of a member of the firm who holds a valid CPA license and is actively engaged in the practice of public accounting.

(2) Experience equivalent to public accounting: You may obtain all or a portion of your qualifying experience in an entity other than a CPA firm participating in a board approved peer or quality review program. However, to qualify this experience must support your attainment of the competencies identified in (a) of this subsection and your attainment of these competencies must be supervised and verified by a licensed CPA meeting the requirements identified in (b) of this subsection.

(a) Competencies: The competencies that must be obtained to meet the experience requirements of this subsection are as follows. The candidate must demonstrate the ability to:

- (i) Understand the profession's code of conduct;
- (ii) Assess the achievement of an entity's objectives;
- (iii) Prepare working papers that contain sufficient data to support analysis and conclusions;

- (iv) Understand transaction streams and information systems;

- (v) Assess risk and design appropriate procedures;

- (vi) Make decisions, solve problems, and think critically in the context of analysis; and

- (vii) Communicate scope of work, findings and conclusions effectively.

(b) Supervising CPA: To supervise and verify a candidate's attainment of the competencies, you must have held a valid CPA license in Washington or another state for:

- (i) A minimum of five years prior to supervising the candidate's experience; and

- (ii) During the entire period of supervision.

(3) Experience affidavit: Your qualifying experience must be verified by the licensed CPA supervising your experience on the appropriate form(s) provided by the board.

(4) Applicants holding a certificate for four years or more: If you held a certificate for more than four years prior to the date you file your application for license, you must also meet the continuing professional education requirements of RCW 18.04.215 (1)(a). You must obtain and submit proof of completion for one hundred twenty hours of continuing professional education within the three-year period immediately preceding the date you submit your application with the board.

(5) Applicants who passed the CPA examination prior to May 1988: If you passed the CPA examination prior to May 1988, you are not limited to experience obtained within the eight-year period prior to submitting your application. However, if you elect to utilize experience from a period more than eight years prior to your application, you must obtain and submit proof of completion for one hundred twenty hours of continuing professional education within the three-year period immediately preceding the date you submit your application with the board.

(6) Supervision: Supervision as used in this rule means that there is a definite relationship between the supervising CPA and the candidate being supervised. The supervising CPA must have frequent in-person meetings with the candidate and must be able to evaluate the candidate's work through:

- (a) Personal knowledge and review of the candidate's work and work environment;

- (b) Discussions with the candidate's work supervisor; and

- (c) Obtaining an in-depth understanding of the type and quality of the candidate's work.

(7) Audit: The board may audit compliance with these experience requirements.

## WSR 01-03-012

### PERMANENT RULES

### BOARD OF ACCOUNTANCY

[Filed January 5, 2001, 12:00 a.m., effective February 5, 2001]

Date of Adoption: January 3, 2001.

Purpose: To allow CPAs to receive compensation in the form of commissions, referral fees, and contingent fees from nonattest clients provided specific disclosure requirements are met.

Citation of Existing Rules Affected by this Order: Amending WAC 4-25-626 What restrictions govern commissions, referral, and contingent fees?

Statutory Authority for Adoption: RCW 18.04.055(2).

Adopted under notice filed as WSR 00-23-090 on November 20, 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 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: February 5, 2001.

January 3, 2001

Dana M. McInturff, CPA

Executive Director

AMENDATORY SECTION (Amending WSR 98-12-055, filed 5/29/98, effective 6/29/98)

**WAC 4-25-626 ((~~Can I accept~~) What restrictions govern commissions, referral, ((~~or~~) and contingent fees?**

**(1) ((~~Commissions and referral fees are compensation arrangements where:~~**

**(a) ~~The primary contractual relationship for the product or service is not between the client and CPA;~~**

**(b) ~~The CPA is not primarily responsible to the client for the performance or reliability of the product or service;~~**

**(c) ~~The CPA adds no significant value to the product or service; or~~**

**(d) ~~A third party instead of the client pays the CPA for the products or services.~~**

**(2) ~~A CPA who is not in public practice but using the title CPA may accept commission, referral, and contingent fees. However, the CPA must disclose in writing to the client the nature, source and amount of the commission, referral or contingent fee.~~**

**(3) ~~The following parameters define the limited circumstances in which a licensee in public practice may be compensated on a commission or referral fee basis. This rule does not apply to compensation set by courts, judicial proceedings, public authorities or governmental agencies.~~**

**(a) ~~A licensee in public practice may not enter into compensation arrangements for attest services that in any way tend to bias or give the appearance of tending to bias the results of attest services or the licensee's report.~~**

**(b) ~~A licensee in public practice may not accept a commission or referral fee, as defined in subsection (1) of this~~**

**~~section, for the sale or referral to a client of products or services of others.~~**

**(c) ~~Any licensee who accepts a referral fee for recommending or referring any service of a licensee to any person or entity or who pays a referral fee to obtain a client shall disclose such acceptance or payment in advance to the client.~~**

**(4) ~~A licensee in public practice may not accept a contingent fee for:~~**

**(a) ~~Attest services;~~**

**(b) ~~Other services, except for tax services which will receive substantive consideration by tax authorities, provided to a client during that client's attest engagement or during the period covered by the respective attest report;~~**

**(c) ~~An arrangement meeting any of the definitions of commissions and referral fees in subsection (1) of this section;~~**

**(d) ~~An arrangement that violates federal laws or the laws or regulations of Washington state or its municipalities; or~~**

**(e) ~~Preparation of original or amended tax returns (a licensee may accept a contingent fee in situations where the licensee reasonably expects the finding or results, on which the contingent fee is based, will receive substantive consideration by tax authorities);~~**

**(f) ~~For services other than those in (a) through (e) of this subsection, a licensee in public practice may perform professional services for a fee which is contingent on the findings or results of the professional services with the following restrictions:~~**

**(i) ~~If the situation involves adverse party(ies) and the licensee expects the findings or results will receive substantive consideration by the adverse party(ies) or their agent(s), the licensee must:~~**

**(A) ~~Obtain a written agreement from the client stating the client will provide to the licensee the name(s) and address(es) of the adverse party(ies) or the primary agent(s) of the adverse party(ies); and~~**

**(B) ~~Provide prompt written notification to the adverse party(ies) or their agent(s) of the licensee's role as the client's advisor and recommend the adverse party(ies) or their agent(s) seek their own advisor.~~**

**(ii) ~~All contingent fee arrangements must:~~**

**(A) ~~Be disclosed in advance of client acceptance;~~**

**(B) ~~Be in writing;~~**

**(C) ~~Include the method of calculating the fee;~~**

**(D) ~~Specify the licensee's role as the client's advisor; and~~**

**(E) ~~Be available to the board or other regulatory agencies upon request.)) A CPA shall not for a commission recommend or refer to a client any product or service, or for a commission recommend or refer any product or service to be supplied by a client, or receive a commission, when the CPA also performs attest services for that client.~~**

**This prohibition applies during the period in which the CPA is engaged to perform the attest services and the period covered by any historical financial statements involved in the attest services.**

**(2) A CPA who is not prohibited by this section from performing services for or receiving a commission and who is paid or expects to be paid a commission shall disclose, consistent with the requirements set forth in subsection (7) of this**

section, that fact to any person or entity to whom the CPA recommends or refers a product or service to which the commission relates.

(3) Any CPA who accepts a referral fee for recommending or referring any service of a CPA to any person or entity or who pays a referral fee to obtain a client shall disclose, consistent with the requirements set forth in subsection (7) of this section, such acceptance or payment to the client.

(4) A CPA shall not:

(a) Perform for a contingent fee any professional services for, or receive such a fee from a client for whom the CPA or the CPA's firm performs attest services; or

(b) Prepare an original or amended tax return or claim for a tax refund for a contingent fee for any client.

(5) The prohibition in subsection (4)(a) of this section applies during the period in which the CPA is engaged to perform the attest services and the period covered by any historical financial statements involved in the attest services.

(6) Except as stated in the next sentence, a contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service. Solely for purposes of this section, fees are not regarded as being contingent if fixed by courts or other public authorities, or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies. A CPA's fees may vary depending, for example, on the complexity of services rendered.

(7) All CPAs who accept commission, referral and contingent fee arrangements must:

(a) Disclose the arrangement in writing and in advance of client acceptance;

(b) Disclose the method of calculating the fee or amount of fee; and

(c) Specify the CPA's role as the client's advisor.

**WSR 01-03-016  
PERMANENT RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 00-271—Filed January 5, 2001, 2:08 p.m.]

Date of Adoption: December 9, 2000.

Purpose: Adopt shellfish definitions; amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-16-260, 220-16-270, and 220-52-051.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 00-22-105 on November 1, 2000.

Changes Other than Editing from Proposed to Adopted Version: Crab proposals continued for later adoption.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

December 29, 2000

Debbie Nelson

for Kelly White, Chairman

Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 817, filed 5/29/69)

WAC 220-16-260 ((~~Geographical definitions—Skagit Bay shrimp fishing area.~~) **Puget Sound Crustacean Management Regions.** ("Skagit Bay shrimp fishing area" shall include those waters of Puget Sound lying within the following lines. A line commencing at West Point on Whidbey Island projected True north to Fidalgo Island, and a line projected from Point Demoeck on Camano Island to Point Polnell on Whidbey Island.)) **The following areas are defined as Puget Sound Crustacean Management Regions:**

(1) Crustacean Management Region 1A - (Western San Juan Islands). The portion of Marine Fish-Shellfish Management and Catch Reporting Area 20B west of a line from Point Doughty on Orcas Island to the bell buoy at the international boundary due north of Waldron Island, and the portion of Marine Fish-Shellfish Management and Catch Reporting Area 22A west of the following line: Beginning at Steep Point on Orcas Island to Neck Point on Shaw Island, then southerly following the west coast of Shaw Island to the southernmost point of Shaw Island, then to the western entrance to Fisherman's Bay on Lopez Island, then southerly and easterly following the west coast of Lopez Island to Point Colville.

(2) Crustacean Management Region 1B - (Eastern San Juan Islands). The portions of Marine Fish-Shellfish Management and Catch Reporting Areas 20B and 22A to the east of Crustacean Management Region 1A and the portion of Marine Fish-Shellfish Management and Catch Reporting Area 21A north and west of a line from the southern tip of Sinclair Island to Carter Point on Lummi Island.

(3) Crustacean Management Region 1C - (Gulf of Georgia/North Puget Sound Bays). All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 21B, and 22B, and the portion of Marine Fish-Shellfish Management and Catch Reporting Area 21A outside of Crustacean Management Region 1B.

(4) Crustacean Management Region 2 - (Central Puget Sound). All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, 25B, 25D, and 26A.

(5) Crustacean Management Region 3 - (Strait of Juan de Fuca). All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23B, 23C, 23D, 25A, 25E, and 29.

(6) Crustacean Management Region 4 - (Southern Central Puget Sound). All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 26B, and 26C.

(7) Crustacean Management Region 5 - (Hood Canal). All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 25C, 27A, 27B, and 27C.

(8) Crustacean Management Region 6 - (South Puget Sound). All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 26D, 28A, 28B, 28C, and 28D.

AMENDATORY SECTION (Amending Order 817, filed 5/29/69)

WAC 220-16-270 ((Geographical definitions—Skagit River.)) Puget Sound Shrimp Districts. ((The term "Skagit River" shall be construed to mean those waters of the Skagit River upstream and inside of a line projected from white monument on the easterly point of Ika Island, across the Skagit River, to the terminus of the jetty with McGinn Island.)) The following areas shall be defined as Puget Sound Shrimp Districts:

(1) Discovery Bay Shrimp District - All waters south of a line from McCurdy Point on the Quimper Peninsula to the northern tip of Protection Island, then to Rocky Point on the Miller Peninsula, and including all waters of Discovery Bay.

(2) Port Angeles Shrimp District - All waters of Port Angeles Harbor west of a line from the eastern tip of Ediz Hook to the ITT-Rayonier dock.

(3) Sequim Bay Shrimp District - All waters of Sequim Bay south of a line projected west from Travis Spit on the Miller Peninsula.

(4) Hood Canal Shrimp District - All waters of Hood Canal south of the Hood Canal Floating Bridge.

(5) Carr Inlet Shrimp District - All waters of Carr Inlet north of a line from Penrose Point to Green Point.

AMENDATORY SECTION (Amending Order 99-217, filed 12/17/99, effective 1/17/00)

WAC 220-52-051 Shrimp fishery—Puget Sound. (1) A Puget Sound shrimp pot license or a Puget Sound shrimp trawl license will only be issued to an individual who is a natural person, and this person shall be the primary operator. The primary operator is required to operate the gear more than one-half of the season and make at least one-half of the landings, as established by valid fish receiving tickets. Holders of Puget Sound shrimp pot licenses and Puget Sound shrimp trawl licenses may designate a single alternate operator per license. The alternate operator may operate the gear up to but not equaling one-half of the fishing effort of the vessel per season, and may make up to but not equaling one-half of the landings, as established by valid fish receiving tickets, except that the director may allow operation of the gear and sale of the shrimp by an alternate operator in excess of one-half of the fishing effort in the case of a bona fide medical emergency for which the primary operator has presented a

physician's statement which includes the medical condition and expected date of recovery of the primary operator. Notification of the medical emergency, presentation of the physician's statement, and obtaining a waiver from the director must be accomplished prior to the end of the season for which the license holder is seeking exception from the seasonal requirement that the primary operator perform more than one half of the fishing effort.

(2) ~~((The following areas are defined as Puget Sound Crustacean Management Regions:~~

~~(a) Crustacean Management Region 1A—(Western San Juan Islands). The portion of Marine Fish-Shellfish Management and Catch Reporting Area 20B west of a line from Point Doughty on Oreas Island to the bell buoy at the international boundary due north of Waldron Island, and the portion of Marine Fish-Shellfish Management and Catch Reporting Area 22A west of the following line: Beginning at Steep Point on Oreas Island to Neek Point on Shaw Island, then southerly following the west coast of Shaw Island to the southernmost point of Shaw Island, then to the western entrance to Fisherman's Bay on Lopez Island, then southerly and easterly following the west coast of Lopez Island to Point Colville.~~

~~(b) Crustacean Management Region 1B—(Eastern San Juan Islands). The portions of Marine Fish-Shellfish Management and Catch Reporting Areas 20B and 22A to the east of Crustacean Management Region 1A and the portion of Marine Fish-Shellfish Management and Catch Reporting Area 21A north and west of a line from the southern tip of Sinclair Island to Carter Point on Lummi Island.~~

~~(c) Crustacean Management Region 1C—(Gulf of Georgia/North Puget Sound Bays). All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 21B, and 22B, and the portion of Marine Fish-Shellfish Management and Catch Reporting Area 21A outside of Crustacean Management Region 1B.~~

~~(d) Crustacean Management Region 2—(Central Puget Sound). All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, 25B, 25D, 25E, and 26A.~~

~~(e) Crustacean Management Region 3—(Strait of Juan de Fuca). All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23B, 23C, 23D, 25A, and 29.~~

~~(f) Crustacean Management Region 4—(Southern Central Puget Sound). All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 26B, 26C, and 26D.~~

~~(g) Crustacean Management Region 5—(Hood Canal). All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 25C, 27A, 27B, and 27C.~~

~~(h) Crustacean Management Region 6—(South Puget Sound). All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 28A, 28B, 28C, and 28D.~~

(3)) It is unlawful to fish for shrimp for commercial purposes in Puget Sound using shellfish pot gear except during seasons opened by emergency rule:

(a) Gear restrictions -

(i) In all areas, maximum 100 pots per fisher.

(ii) In all areas:

(A) Buoys must be orange in color and consist of durable material that will remain floating on the surface with five

pounds attached; bleach or antifreeze bottles or other containers may not be used as floats.

(B) The line attaching the pot to the buoy must be weighted sufficiently to prevent the line from floating on the surface.

(C) The maximum perimeter of shrimp pots must not exceed ten feet and the maximum height must not exceed two feet.

(b) Spot shrimp size restriction: It is unlawful to retain spot shrimp taken by shellfish pot gear that have a carapace length less than 1 and 3/16 inches. Carapace length is defined as the length between the posterior mid-dorsal margin to the posterior-most part of the eye-stalk orbit.

~~((4))~~ (c) Area restrictions:

(i) Pot gear closed in all Puget Sound Shrimp Districts.

(ii) Pot gear closed in Lopez Sound south of a line projected true east-west from the northern tip of Trump Island from the season opening through July 9th.

(3) It is unlawful to fish for shrimp for commercial purposes in Puget Sound using trawl gear except during seasons opened by emergency rule:

(a) Gear restrictions - Beam trawl gear only. Otter trawl gear may not be used.

(i) Maximum beam width in Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, and 22A is 25 feet.

(ii) Maximum beam width in Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23B, 23C, 25A, 25B, and 29 is 60 feet.

(b) It is unlawful to retain spot shrimp.

(c) Area restrictions:

(i) Shrimp trawl fishing closed in all Puget Sound Shrimp Districts.

(ii) Shrimp trawl fishing closed in Lopez Sound south of a line projected true east-west from the northern tip of Trump Island from the season opening through July 9th.

(d) It is unlawful to fish for shrimp in Puget Sound with beam trawl gear in waters shallower than 100 feet.

(e) It is lawful to fish for shrimp in Puget Sound with beam trawl gear in Marine Fish-Shellfish Management and Catch Reporting Area 21A only in those waters north and west of a line from the southern tip of Sinclair Island to Carter Point on Lummi Island.

(f) The following restrictions apply to shrimp beam trawl harvest in Marine Fish-Shellfish Management and Catch Reporting Area 20A:

(i) Closed in waters east of a line from the southwest corner of Point Roberts to Sandy Point.

(ii) Closed in waters shallower than 20 fathoms.

(iii) Closed in waters shallower than 50 fathoms from March 16 through July 31.

(4) All shrimp taken in the Puget Sound commercial shrimp fishery must be landed and recorded on Washington state fish receiving tickets within 24 hours of harvest. No fisher may land shrimp without immediate delivery to a licensed wholesale dealer, or if transferred at sea, without transfer to a licensed wholesale dealer. A fisher who is a licensed wholesale dealer may complete and return a fish receiving ticket to satisfy the requirements of this subsection.

## WSR 01-03-032

### PERMANENT RULES

### OFFICE OF THE

### INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2000-04—Filed January 9, 2001, 11:16 a.m.]

Date of Adoption: January 9, 2001.

Purpose: Section 26, chapter 79, Laws of 2000, requires a minimum pharmacy benefit, these rules will increase the understanding of the consumer regarding that pharmacy benefit by establishing a common terminology and method of explaining the benefit.

Citation of Existing Rules Affected by this Order: Amending WAC 284-43-130.

Statutory Authority for Adoption: RCW 48.02.060, 48.20.450, 48.20.460, 48.30.010, 48.44.050, 48.46.200, section 26, chapter 79, Laws of 2000.

Other Authority: RCW 48.30.040, 48.44.110, 48.46.400.

Adopted under notice filed as WSR 00-16-125 on August 2, 2000.

Changes Other than Editing from Proposed to Adopted Version: The rules were modified to coordinate compliance with the patient's bill of rights rules. Questions and answers only need to be included in the contract. A provision was added to allow the commissioner to extend or waive the time of compliance for good cause.

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 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 9, 2001

Deborah Senn

Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 98-7, filed 9/8/99, effective 10/9/99)

**WAC 284-43-130 Definitions.** Except as defined in other subchapters and unless the context requires otherwise, the following definitions shall apply throughout this chapter.

(1) "Covered health condition" means any disease, illness, injury or condition of health risk covered according to the terms of any health plan.

(2) "Covered person" means an individual covered by a health plan including an enrollee, subscriber, policyholder, or beneficiary of a group plan.

(3) "Emergency medical condition" means the emergent and acute onset of a symptom or symptoms, including severe pain, that would lead a prudent layperson acting reasonably to believe that a health condition exists that requires immediate medical attention, if failure to provide medical attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy.

(4) "Emergency services" means otherwise covered health care services medically necessary to evaluate and treat an emergency medical condition, provided in a hospital emergency department.

(5) "Enrollee point-of-service cost-sharing" or "cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

(6) "Facility" means an institution providing health care services, including but not limited to hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory, and imaging centers, and rehabilitation and other therapeutic settings.

(7) "Formulary" means a listing of drugs used within a health plan.

(8) "Grievance" means a written complaint submitted by or on behalf of a covered person regarding:

(a) Denial of health care services or payment for health care services; or

(b) Issues other than health care services or payment for health care services including dissatisfaction with health care services, delays in obtaining health care services, conflicts with carrier staff or providers, and dissatisfaction with carrier practices or actions unrelated to health care services.

~~((8))~~ (9) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 RCW or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

~~((9))~~ (10) "Health care service" or "health service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

~~((10))~~ (11) "Health carrier" or "carrier" means a disability insurance company regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, and a health maintenance organization as defined in RCW 48.46.020.

~~((11))~~ (12) "Health plan" or "plan" means any individual or group policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care service except the following:

(a) Long-term care insurance governed by chapter 48.84 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Limited health care service offered by limited health care service contractors in accordance with RCW 48.44.035;

(d) Disability income;

(e) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(f) Workers' compensation coverage;

(g) Accident only coverage;

(h) Specified disease and hospital confinement indemnity when marketed solely as a supplement to a health plan;

(i) Employer-sponsored self-funded health plans;

(j) Dental only and vision only coverage; and

(k) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

~~((12))~~ (13) "Managed care plan" means a health plan that coordinates the provision of covered health care services to a covered person through the use of a primary care provider and a network.

~~((13))~~ (14) "Medically necessary" or "medical necessity" in regard to mental health services and pharmacy services is a carrier determination as to whether a health service is a covered benefit if the service is consistent with generally recognized standards within a relevant health profession.

~~((14))~~ (15) "Mental health provider" means a health care provider or a health care facility authorized by state law to provide mental health services.

~~((15))~~ (16) "Mental health services" means in-patient or out-patient treatment, partial hospitalization or out-patient treatment to manage or ameliorate the effects of a mental disorder listed in the *Diagnostic and Statistical Manual (DSM) IV* published by the American Psychiatric Association, excluding diagnoses and treatments for substance abuse, 291.0 through 292.9 and 303.0 through 305.9.

~~((16))~~ (17) "Network" means the group of participating providers and facilities providing health care services to a particular health plan. A health plan network for carriers offering more than one health plan may be smaller in number than the total number of participating providers and facilities for all plans offered by the carrier.

~~((17))~~ (18) "Out-patient therapeutic visit" or "out-patient visit" means a clinical treatment session with a mental health provider of a duration consistent with relevant professional standards used by the carrier to determine medical necessity for the particular service being rendered, as defined in *Physicians Current Procedural Terminology*, published by the American Medical Association.

~~((18))~~ (19) "Participating provider" and "participating facility" means a facility or provider who, under a contract with the health carrier or with the carrier's contractor or subcontractor, has agreed to provide health care services to covered persons with an expectation of receiving payment, other



than coinsurance, copayments, or deductibles, from the health carrier rather than from the covered person.

~~((19))~~ (20) "Person" means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing.

~~((20))~~ (21) "Pharmacy services" means the practice of pharmacy as defined in chapter 18.64 RCW and includes any drugs or devices as defined in chapter 18.64 RCW.

(22) "Primary care provider" means a participating provider who supervises, coordinates, or provides initial care or continuing care to a covered person, and who may be required by the health carrier to initiate a referral for specialty care and maintain supervision of health care services rendered to the covered person.

~~((21))~~ (23) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

~~((22))~~ (24) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

~~((23))~~ (25) "Small group" means a health plan issued to a small employer as defined under RCW 48.43.005(24) comprising from one to fifty eligible employees.

(26) "Substitute drug" means a therapeutically equivalent substance as defined in chapter 69.41 RCW.

(27) "Supplementary pharmacy services" or "other pharmacy services" means pharmacy services involving the provision of drug therapy management and other services not required under state and federal law but that may be rendered in connection with dispensing, or that may be used in disease prevention or disease management.

## NEW SECTION

### WAC 284-43-815 Coverage for pharmacy services.

(1) The commissioner may disapprove any contract issued or renewed after July 1, 2001, that includes coverage for pharmacy services if the following statement is not provided to covered persons at the time of enrollment:

#### *YOUR RIGHT TO SAFE AND EFFECTIVE PHARMACY SERVICES*

*State and federal laws establish standards to assure safe and effective pharmacy services, and to guarantee your right to know what drugs are covered under this plan and what coverage limitations are in your contract. If you would like more information about the drug coverage policies under this plan, or if you have a question or a concern about your pharmacy benefit, please contact us (the health carrier) at 1-800-???-????.*

*If you would like to know more about your rights under the law, or if you think anything you received from this plan may not conform to the terms of your contract, you may contact*

*the Washington State Office of Insurance Commissioner at 1-800-562-6900. If you have a concern about the pharmacists or pharmacies serving you, please call the State Department of Health at 360-236-4825.*

(2) The commissioner may disapprove any contract issued or renewed after July 1, 2001, that includes coverage for pharmacy services if the carrier does not: Pose and respond in writing to the following questions in language that complies with WAC 284-50-010 through 284-50-230; offers to provide and provide upon request this information prior to enrollment; and ensures that this information is provided to covered persons at the time of enrollment:

(a) "**Does this plan limit or exclude certain drugs my health care provider may prescribe, or encourage substitutions for some drugs?**" The response must describe the process for developing coverage standards and formularies, including the principal criteria by which drugs are selected for inclusion, exclusion, restriction or limitation. If a determination of medical necessity is used, that term must be briefly defined here. Coverage standards involving the use of substitute drugs, whether generic or therapeutic, are either an exception, reduction or limitation and must be discussed here. Major categories of drugs excluded, limited or reduced from coverage may be included in this response.

(b) "**When can my plan change the approved drug list (formulary)? If a change occurs, will I have to pay more to use a drug I had been using?**" The response must identify the process of changing formularies and coverage standards, including changes in the use of substitute drugs. If the plan gives prior notice of these changes or has provisions for "grandfathering" certain ongoing prescriptions, these practices may be discussed here.

(c) "**What should I do if I want a change from limitations, exclusions, substitutions or cost increases for drugs specified in this plan?**" The response must include a phone number to call with a request for a change in coverage decisions, and must discuss the process and criteria by which such a change may be granted. The response may refer to the appeals or grievance process without describing that process in detail here. The response must state the time within which requests for changes will be acted upon in normal circumstances and in circumstances where an emergency medical condition exists.

(d) "**How much do I have to pay to get a prescription filled?**" The response must list enrollee point-of-service cost-sharing dollar amounts or percentages for all coverage categories including at least name brand drugs, substitute drugs and any drugs which may be available, but which are not on the health plan's formulary.

(e) "**Do I have to use certain pharmacies to pay the least out of my own pocket under this health plan?**" If the answer to this question is "yes," the plan must state the approximate number of pharmacies in Washington at which the most favorable enrollee cost sharing will be provided, and some means by which the enrollee can learn which ones they are.

(f) "How many days' supply of most medications can I get without paying another co-pay or other repeating charge?" The response should discuss normal and exceptional supply limits, mail order arrangements and travel supply and refill requirements or guidelines.

(g) "What other pharmacy services does my health plan cover?" The response should include any "intellectual services," or disease management services reimbursed by the plan in addition to those required under state and federal law in connection with dispensing, such as disease management services for migraine, diabetes, smoking cessation, asthma, or lipid management.

(3) The commissioner may disapprove any contract issued or renewed after July 1, 2001, that includes coverage for pharmacy services if the general categories of drugs excluded from coverage are not provided to covered persons at the time of enrollment. Such categories may include items such as appetite suppressants, dental prescriptions, cosmetic agents or most over-the-counter medications. This subsection intends only to promote clearer enrollee understanding of the exclusions, reductions and limitations contained in a health plan, and not to suggest that any particular categories of coverage for drugs or pharmacy services should be excluded, reduced, or limited by a health plan.

(4) In complying with these requirements, a carrier may, where appropriate and consistent with the provisions of these rules, consolidate the information with other material required by disclosure provisions set forth in RCW 48.43.510 and WAC 284-43-820.

(5) This information may be provided in a narrative form to the extent that the content of both questions and answers is included.

(6) The commissioner may grant an extension or waive these requirements for good cause and if there is assurance that the information, required herein, is distributed in a timely manner consistent with the purpose and intent of these rules.

**WSR 01-03-033**  
**PERMANENT RULES**  
**OFFICE OF THE**  
**INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2000-02—Filed January 9, 2001,  
11:19 a.m.]

Date of Adoption: January 9, 2001.

Purpose: The proposed rules will implement the recently enacted "Patient Bill of Rights," chapter 5, Laws of 2000 (E2SSB 6199).

Citation of Existing Rules Affected by this Order: Repealing WAC 284-43-610; and amending WAC 284-43-130, 284-43-200, and 284-43-620.

Statutory Authority for Adoption: RCW 48.02.060, 48.18.120, 48.20.450, 48.20.460, 48.30.010, 48.44.050, 48.46.100, 48.46.200, 48.43.505, 48.43.510, 48.43.515, 48.43.520, 48.43.525, 48.43.530, 48.43.535.

Adopted under notice filed as WSR 00-22-119 on November 1, 2000.

Changes Other than Editing from Proposed to Adopted Version: WAC 284-43-130 Definitions, three new definitions are added to the chapter for clarification, adverse determination, certification, and clinical review criteria. Grievance is amended to include "oral" complaints. The changes to the definition of "health plan" that previously included state programs has been removed. WAC 284-43-200 Network adequacy, subsection (1) - (3) choice among alternative care providers is explicitly recognized in the network adequacy standards. Choice of specialists is removed along with other language governing adequacy determinations. Carriers may demonstrate adequacy with reference to accepted government and national accreditation programs. Subsection (4), drive time standards for network adequacy are removed and replaced with a general standard to reduce the distance that consumers must travel for care. Subsection (7), carriers must allow American Indians to use tribal health care facilities. Carriers can pay at the network rate and only for medically necessary services that are covered benefits. WAC 284-43-251 Access to providers, most provisions of this new section parallel the statutory provisions of the PBOR. WAC 284-43-410 Utilization review, this section sets general standards for utilization review and closely follows the PBOR. The section has been rewritten since first proposed to permit carriers to meet the standard through national accreditation programs. Other new standards include: Limits on the collection of health information, prohibitions on retaliation against providers who dispute payments, requirements that carriers only use utilization standards that have been communicated to providers, and prohibitions on charging for second opinions mandated by PBOR. WAC 284-43-820 Prescription drug disclosure, this section sets forth extensive rules for the disclosure of drug formularies. WAC 284-43-899 Effective date, July 1, 2001.

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 6, Amended 3, 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.

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 9, 2001

Deborah Senn

Insurance Commissioner

PERMANENT

**AMENDATORY SECTION** (Amending Matter No. R 98-7, filed 9/8/99, effective 10/9/99)

**WAC 284-43-130 Definitions.** Except as defined in other subchapters and unless the context requires otherwise, the following definitions shall apply throughout this chapter.

(1) "Adverse determination and noncertification" means a decision by a health carrier to deny, modify, reduce, or terminate payment, coverage, authorization, or provision of health care services or benefits including the admission to or continued stay in a facility.

(2) "Certification" means a determination by the carrier that an admission, extension of stay, or other health care service has been reviewed and, based on the information provided, meets the clinical requirements for medical necessity, appropriateness, level of care, or effectiveness in relation to the applicable health plan.

(3) "Clinical review criteria" means the written screens, decision rules, medical protocols, or guidelines used by the carrier as an element in the evaluation of medical necessity and appropriateness of requested admissions, procedures, and services under the auspices of the applicable health plan.

(4) "Covered health condition" means any disease, illness, injury or condition of health risk covered according to the terms of any health plan.

((2)) (5) "Covered person" means an individual covered by a health plan including an enrollee, subscriber, policyholder, or beneficiary of a group plan.

((3)) (6) "Emergency medical condition" means the emergent and acute onset of a symptom or symptoms, including severe pain, that would lead a prudent layperson acting reasonably to believe that a health condition exists that requires immediate medical attention, if failure to provide medical attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy.

((4)) (7) "Emergency services" means otherwise covered health care services medically necessary to evaluate and treat an emergency medical condition, provided in a hospital emergency department.

((5)) (8) "Enrollee point-of-service cost-sharing" or "cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

((6)) (9) "Facility" means an institution providing health care services, including but not limited to hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory, and imaging centers, and rehabilitation and other therapeutic settings.

((7)) (10) "Grievance" means a written or an oral complaint submitted by or on behalf of a covered person regarding:

(a) Denial of health care services or payment for health care services; or

(b) Issues other than health care services or payment for health care services including dissatisfaction with health care services, delays in obtaining health care services, conflicts

with carrier staff or providers, and dissatisfaction with carrier practices or actions unrelated to health care services.

((8)) (11) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 RCW or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

((9)) (12) "Health care service" or "health service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

((10)) (13) "Health carrier" or "carrier" means a disability insurance company regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, and a health maintenance organization as defined in RCW 48.46.020.

((11)) (14) "Health plan" or "plan" means any individual or group policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care service except the following:

(a) Long-term care insurance governed by chapter 48.84 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Limited health care service offered by limited health care service contractors in accordance with RCW 48.44.035;

(d) Disability income;

(e) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(f) Workers' compensation coverage;

(g) Accident only coverage;

(h) Specified disease and hospital confinement indemnity when marketed solely as a supplement to a health plan;

(i) Employer-sponsored self-funded health plans;

(j) Dental only and vision only coverage; and

(k) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

((12)) (15) "Managed care plan" means a health plan that coordinates the provision of covered health care services to a covered person through the use of a primary care provider and a network.

((13)) (16) "Medically necessary" or "medical necessity" in regard to mental health services is a carrier determination as to whether a health service is a covered benefit if the service is consistent with generally recognized standards within a relevant health profession.

((14)) (17) "Mental health provider" means a health care provider or a health care facility authorized by state law to provide mental health services.

((15)) (18) "Mental health services" means in-patient or out-patient treatment, partial hospitalization or out-patient

treatment to manage or ameliorate the effects of a mental disorder listed in the *Diagnostic and Statistical Manual (DSM) IV* published by the American Psychiatric Association, excluding diagnoses and treatments for substance abuse, 291.0 through 292.9 and 303.0 through 305.9.

~~((16))~~ (19) "Network" means the group of participating providers and facilities providing health care services to a particular health plan. A health plan network for carriers offering more than one health plan may be smaller in number than the total number of participating providers and facilities for all plans offered by the carrier.

~~((17))~~ (20) "Out-patient therapeutic visit" or "out-patient visit" means a clinical treatment session with a mental health provider of a duration consistent with relevant professional standards used by the carrier to determine medical necessity for the particular service being rendered, as defined in *Physicians Current Procedural Terminology*, published by the American Medical Association.

~~((18))~~ (21) "Participating provider" and "participating facility" means a facility or provider who, under a contract with the health carrier or with the carrier's contractor or sub-contractor, has agreed to provide health care services to covered persons with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, from the health carrier rather than from the covered person.

~~((19))~~ (22) "Person" means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing.

~~((20))~~ (23) "Primary care provider" means a participating provider who supervises, coordinates, or provides initial care or continuing care to a covered person, and who may be required by the health carrier to initiate a referral for specialty care and maintain supervision of health care services rendered to the covered person.

~~((21))~~ (24) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

~~((22))~~ (25) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

~~((23))~~ (26) "Small group" means a health plan issued to a small employer as defined under RCW 48.43.005(24) comprising from one to fifty eligible employees.

**AMENDATORY SECTION** (Amending Matter No. R 99-2, filed 1/24/00, effective 3/1/00)

**WAC 284-43-200 Network adequacy.** (1) A health carrier shall maintain each plan network in a manner that is sufficient in numbers and types of providers and facilities to assure that all health plan services to covered persons will be accessible without unreasonable delay. Each covered person shall have adequate choice among each type of health care

provider, including those types of providers who must be included in the network under WAC 284-43-205. In the case of emergency services, covered persons shall have access twenty-four hours per day, seven days per week. The carrier's service area shall not be created in a manner designed to discriminate against persons because of age, sex, family structure, ethnicity, race, health condition, employment status, or socioeconomic status. Each carrier shall ensure that its networks will meet these requirements by the end of the first year of initial operation ~~(; or, for those plans already in existence, by August 22, 1998)~~ of the network and at all times thereafter.

(2) Sufficiency and adequacy of choice may be established by the carrier with reference to any reasonable criteria used by the carrier, including but not limited to: Provider-covered person ratios by specialty, primary care provider-covered person ratios, geographic accessibility, waiting times for appointments with participating providers, hours of operation, and the volume of technological and specialty services available to serve the needs of covered persons requiring technologically advanced or specialty care. Evidence of carrier compliance with network adequacy standards that are substantially similar to those standards established by state agency health care purchasers (e.g., the state health care authority and the department of social and health services) and by private managed care accreditation organizations may be used to demonstrate sufficiency. At a minimum, a carrier will be held accountable for meeting those standards described under WAC 284-43-220.

(3) In any case where the health carrier has an absence of or an insufficient number or type of participating providers or facilities to provide a particular covered health care service, the carrier shall ensure through referral by the primary care provider or otherwise that the covered person obtains the covered service from a provider or facility within reasonable proximity of the covered person at no greater cost to the covered person than if the service were obtained from network providers and facilities, or shall make other arrangements acceptable to the commissioner.

(4) The health carrier shall establish and maintain adequate arrangements to ensure reasonable proximity of network providers and facilities to the business or personal residence of covered persons. Health carriers shall make reasonable efforts to include providers and facilities in networks in a manner that limits the amount of travel required to obtain covered benefits. For example, a carrier should not require travel of thirty miles or more when a provider who meets carrier standards is available for inclusion in the network and practices within five miles of enrollees. In determining whether a health carrier has complied with this provision, the commissioner will give due consideration to the relative availability of health care providers or facilities in the service area under consideration and to the standards established by state agency health care purchasers. Relative availability includes the willingness of providers or facilities in the service area to contract with the carrier under reasonable terms and conditions.

(5) A health carrier shall monitor, on an ongoing basis, the ability and clinical capacity of its network providers and facilities to furnish health plan services to covered persons.

(6) Beginning July 1, 2000, the health carrier shall disclose to covered persons that limitations or restrictions on access to participating providers and facilities may arise from the health service referral and authorization practices of participating providers and facilities. The carrier shall provide instructions to covered persons as to how they can receive details about such practices from their primary care provider or through other formally established processes. For example, a covered person relying on such instructions or processes could discover if the choice of a particular primary care provider would result in the covered person's inability to obtain a referral to certain other participating providers.

(7) To provide adequate choice to covered persons who are American Indians, each health carrier shall maintain arrangements that ensure that American Indians who are covered persons have access to Indian health care services and facilities that are part of the Indian health system. Carriers shall ensure that such covered persons may obtain covered services from the Indian health system at no greater cost to the covered person than if the service were obtained from network providers and facilities. Carriers are not responsible for credentialing providers and facilities that are part of the Indian health system. Nothing in this subsection prohibits a carrier from limiting coverage to those health services that meet carrier standards for medical necessity, care management, and claims administration or from limiting payment to that amount payable if the health service were obtained from a network provider or facility.

#### NEW SECTION

**WAC 284-43-251 Covered person's access to providers.** (1) Each carrier must allow a covered person to choose a primary care provider who is accepting new patients from a list of participating providers. Covered persons also must be permitted to change primary care providers at any time with the change becoming effective no later than the beginning of the month following the covered person's request for the change.

(2) Each carrier must have a process whereby a covered person with a complex or serious medical or psychiatric condition may receive a standing referral to a participating specialist for an extended period of time. The standing referral must be consistent with the covered person's medical needs and plan benefits. For example, a one-month standing referral would not satisfy this requirement when the expected course of treatment was indefinite. However, a referral does not preclude carrier performance of utilization review functions.

(3) Each carrier shall provide covered persons with direct access to the participating chiropractor of the covered person's choice for covered chiropractic health care without the necessity of prior referral. Nothing in this subsection shall prevent carriers from restricting covered persons to seeing only chiropractors who have signed participating provider agreements or from utilizing other managed care and cost containment techniques and processes. For purposes of this subsection, "covered chiropractic health care" means covered benefits and limitations related to chiropractic health services as stated in the plan's medical coverage agreement,

with the exception of any provisions related to prior referral for services.

(4) Each carrier must provide, upon the request of a covered person, access by the covered person to a second opinion regarding any medical diagnosis or treatment plan from a qualified participating provider of the covered person's choice. The carrier may not impose any charge or cost upon the covered person for such second opinion other than a charge or cost imposed for the same service in otherwise similar circumstances.

(5) Each carrier must cover services of a primary care provider whose contract with the plan or whose contract with a subcontractor is being terminated by the plan or subcontractor without cause under the terms of that contract for at least sixty days following notice of termination to the covered persons or, in group coverage arrangements involving periods of open enrollment, only until the end of the next open enrollment period. Notice to covered persons shall include information of the covered person's right of access to the terminating provider for an additional sixty days. The provider's relationship with the carrier or subcontractor must be continued on the same terms and conditions as those of the contract the plan or subcontractor is terminating, except for any provision requiring that the carrier assign new covered persons to the terminated provider.

(6) Each carrier shall make a good faith effort to assure that written notice of a termination within fifteen working days of receipt or issuance of a notice of termination is provided to all covered persons who are patients seen on a regular basis by the provider whose contract is terminating, irrespective of whether the termination was for cause or without cause.

### **SUBCHAPTER D UTILIZATION REVIEW**

#### NEW SECTION

**WAC 284-43-410 Utilization review—Generally.** (1) Each carrier shall maintain a documented utilization review program description and written clinical review criteria based on reasonable medical evidence. The program must include a method for reviewing and updating criteria. Carriers shall make clinical review criteria available upon request to participating providers. A carrier need not use medical evidence or standards in its utilization review of religious nonmedical treatment or religious nonmedical nursing care.

(2) The utilization review program shall meet accepted national certification standards such as those used by the National Committee for Quality Assurance except as otherwise required by this chapter and shall have staff who are properly qualified, trained, supervised, and supported by explicit written clinical review criteria and review procedures.

(3) Each carrier when conducting utilization review shall:

(a) Accept information from any reasonably reliable source that will assist in the certification process;

(b) Collect only the information necessary to certify the admission, procedure or treatment, length of stay, or frequency or duration of services;

(c) Not routinely require providers or facilities to numerically code diagnoses or procedures to be considered for certification, but may request such codes, if available;

(d) Not routinely request copies of medical records on all patients reviewed;

(e) Require only the section(s) of the medical record during prospective review or concurrent review necessary in that specific case to certify medical necessity or appropriateness of the admission or extension of stay, frequency or duration of service;

(f) For prospective and concurrent review, base review determinations solely on the medical information obtained by the carrier at the time of the review determination;

(g) For retrospective review, base review determinations solely on the medical information available to the attending physician or order provider at the time the health service was provided;

(h) Not retrospectively deny coverage for emergency and nonemergency care that had prior authorization under the plan's written policies at the time the care was rendered unless the prior authorization was based upon a material misrepresentation by the provider;

(i) Not retrospectively deny coverage or payment for care based upon standards or protocols not communicated to the provider or facility within a sufficient time period for the provider or facility to modify care in accordance with such standard or protocol; and

(j) Reverse its certification determination only when information provided to the carrier is materially different from that which was reasonably available at the time of the original determination.

(4) Each carrier shall reimburse reasonable costs of medical record duplication for reviews.

(5) Each carrier shall have written procedures to assure that reviews and second opinions are conducted in a timely manner.

(a) Review determinations must be made within two business days of receipt of the necessary information on a proposed admission or service requiring a review determination.

(b) The frequency of reviews for the extension of initial determinations must be based upon the severity or complexity of the patient's condition or on necessary treatment and discharge planning activity.

(c) Retrospective review determinations must be completed within thirty days of receipt of the necessary information.

(d) Notification of the determination shall be provided to the attending physician or ordering provider or facility and to the covered person within two days of the determination and shall be provided within one day of concurrent review determination. Notification shall include the number of extended days, the next anticipated review point, the new total number of days or services approved, and the date of admission or onset of services.

(6) No carrier may penalize or threaten a provider or facility with a reduction in future payment or termination of

participating provider or participating facility status because the provider or facility disputes the carrier's determination with respect to coverage or payment for health care service.

## SUBCHAPTER F

### GRIEVANCE AND COMPLAINT PROCEDURES

#### NEW SECTION

**WAC 284-43-615 Grievance and complaint procedures—Generally.** (1) Each carrier must adopt and implement a comprehensive process for the resolution of covered persons' grievances and appeals of adverse determinations. This process shall meet accepted national certification standards such as those used by the National Committee for Quality Assurance except as otherwise required by this chapter.

(2) This process must conform to the provisions of this chapter and each carrier must:

(a) Provide a clear explanation of the grievance process upon request, upon enrollment to new covered persons, and annually to covered person and subcontractors of the carrier.

(b) Ensure that the grievance process is accessible to enrollees who are limited-English speakers, who have literacy problems, or who have physical or mental disabilities that impede their ability to file a grievance.

(c) Process as a grievance a covered person's expression of dissatisfaction about customer service or the quality or availability of a health service.

(d) Implement procedures for registering and responding to oral and written grievances in a timely and thorough manner including the notification of a covered person that a grievance or appeal has been received.

(e) Assist the covered person with all grievance and appeal processes.

(f) Cooperate with any representative authorized in writing by the covered person.

(g) Consider all information submitted by the covered person or representative.

(h) Investigate and resolve all grievances and appeals.

(i) Provide information on the covered person's right to obtain second opinions.

(j) Track each appeal until final resolution; maintain, and make accessible to the commissioner for a period of three years, a log of all appeals; and identify and evaluate trends in appeals.

**AMENDATORY SECTION** (Amending Matter No. R 98-17, filed 11/29/99, effective 12/30/99)

**WAC 284-43-620 Procedures for (~~health care service review decisions~~) review and appeal of adverse determinations.** (1) A covered person or the covered person's representative, including the treating provider (regardless of whether the provider is affiliated with the carrier) acting on behalf of the covered person may appeal an adverse determination in writing. The carrier must reconsider the adverse determination and notify the covered person of its decision within fourteen days of receipt of the appeal unless the carrier notifies the covered person that an extension is

necessary to complete the appeal; however, the extension cannot delay the decision beyond thirty days of the request for appeal, without the informed, written consent of the coverage person.

(2) Whenever a health carrier makes an adverse determination and delay would jeopardize the covered person's life or materially jeopardize the covered person's health, the carrier shall expedite and process either a written or an oral appeal and issue a decision no later than seventy-two hours after receipt of the appeal. If the treating health care provider determines that delay ~~((would))~~ could jeopardize the covered ~~((person's life or materially jeopardize the))~~ person's health or ability to regain maximum function, the carrier shall presume the need for expeditious review, including the need for an expeditious determination in any independent review under WAC 284-43-630.

(3) A carrier may not take or threaten to take any punitive action against a provider acting on behalf or in support of a covered person appealing an adverse determination.

(4) Appeals of adverse determinations shall be evaluated by health care providers who were not involved in the initial decision and who have appropriate expertise in the field of medicine that encompasses the covered person's condition or disease.

(5) All appeals must include a review of all relevant information submitted by the covered person or a provider acting on behalf of the covered person.

(6) The carrier shall issue to affected parties and to any provider acting on behalf of the covered person a written notification of the adverse determination that includes the actual reasons for the determination, the instructions for obtaining an appeal of the carrier's decision, a written statement of the clinical rationale for the decision, and instructions for obtaining the clinical review criteria used to make the determination.

#### NEW SECTION

**WAC 284-43-630 Independent review of adverse determinations.** (1) A covered person may seek review by a certified independent review organization of an adverse decision after exhausting the carrier's grievance process and receiving a decision that is unfavorable to the covered person, or after the carrier has exceeded the timelines for grievances provided in this chapter, without good cause and without reaching a decision. Upon prior written approval of the carrier's process by the commissioner, a carrier may establish a process to bypass the carrier's internal grievance process and allow for the direct appeal to a certified independent review organization for certain classes of adverse determinations.

(2) Carriers must provide to the appropriate independent review organization certified by the department of health and designated by the commissioner's rotational registry, not later than the third business day after the date the carrier receives a request for review, a copy of:

(a) Any medical records of the covered person that are relevant to the review;

(b) Any documents used by the carrier in making the determination to be reviewed by the certified independent review organization; including relevant clinical review criteria

used by the carrier and other relevant medical, scientific, and cost-effectiveness evidence;

(c) Any documentation and written information submitted to the carrier in support of the appeal;

(d) A list of each physician or health care provider who has provided care to the covered person and who may have medical records relevant to the appeal. Health information or other confidential or proprietary information in the custody of a carrier may be provided to an independent review organization, subject to the privacy provisions of Title 284 WAC;

(e) The attending or ordering provider's recommendations; and

(f) The terms and conditions of coverage under the relevant health plan.

The carrier shall also make available to the covered person and to any provider acting on behalf of the covered person all materials provided to an independent review organization reviewing the carrier's determination. The carrier may also require the covered person and any provider acting on behalf of a covered person to make available to the carrier information provided to an independent review organization in support of an appeal.

(3) The medical reviewers from a certified independent review organization shall make determinations regarding the medical necessity or appropriateness of, and the application of health plan coverage provisions to, health care services for a covered person. The medical reviewers' determinations must be based upon their expert medical judgment, after consideration of relevant medical, scientific, and cost-effectiveness evidence, and medical standards of practice in the state of Washington. Except as provided in this subsection, the certified independent review organization must ensure that determinations are consistent with the scope of covered benefits as outlined in the medical coverage agreement. Medical reviewers may override the health plan's medical necessity or appropriateness standards if the standards are determined upon review to be unreasonable or inconsistent with sound, evidence-based medical practice.

(4) Once a request for an independent review determination has been made, the independent review organization must proceed to a final determination, unless requested otherwise by both the carrier and the covered person or covered person's representative.

(5) Carriers must implement the certified independent review organization's determination promptly, and must pay the certified independent review organization's charges.

#### NEW SECTION

**WAC 284-43-820 Health plan disclosures—Prescription drugs, preventive care, generally.** (1) A carrier that offers a health plan may not offer to sell a health plan to an enrollee or to any group representative, agent, employer, or enrollee representative without first offering to provide, and providing upon request, the following information using a standardized summary format filed with the commissioner and consistent with WAC 284-43-815 before purchase or selection:

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(a) A listing of covered benefits, including prescription drug benefits, if any, and how consumers may be involved in decisions about benefits;

(b) A listing of exclusions, reductions, and limitations to covered benefits, including definitions of terms such as formulary, generic versus brand name, medical necessity or other coverage criteria and policies regarding coverage of drugs, including how drugs are added or removed from the formulary;

(c) A statement of the carrier's policies for protecting the confidentiality of health information;

(d) A statement of the cost of premiums and any enrollee cost-sharing requirements;

(e) A summary explanation of the carrier's grievance process;

(f) A statement regarding the availability of a point-of-service option, if any, and how the option operates; and

(g) A convenient means of obtaining a complete and detailed list of covered benefits including a copy of the current formulary, if any is used, a list of participating primary care and specialty care providers, including disclosure of network arrangements that restrict access to providers within any plan network. The offer to provide the information referenced in this subsection (1) must be clearly and prominently displayed on any information provided to any prospective enrollee or to any prospective group representative, agent, employer, or enrollee representative.

(2) Upon the request of any person, including a current enrollee, prospective enrollee, or the insurance commissioner, a carrier must provide written information regarding any health care plan it offers, that includes the following written information:

(a) Any documents, instruments, or other information referred to in the medical coverage agreement;

(b) A full description of the procedures to be followed by an enrollee for consulting a provider other than the primary care provider and whether the enrollee's primary care provider, the carrier's medical director, or another entity must authorize the referral;

(c) Procedures, if any, that an enrollee must first follow for obtaining prior authorization for health care services;

(d) A written description of any reimbursement or payment arrangements, including, but not limited to, capitation provisions, fee-for-service provisions, and health care delivery efficiency provisions, between a carrier and a provider or network;

(e) Descriptions and justifications for provider compensation programs, including any incentives or penalties that are intended to encourage providers to withhold services or minimize or avoid referrals to specialists;

(f) An annual accounting of all payments made by the carrier which have been counted against any payment limitations, visit limitations, or other overall limitations on a person's coverage under a plan;

(g) A copy of the carrier's grievance process for claim or service denial and for dissatisfaction with care; and

(h) Accreditation status with one or more national managed care accreditation organizations, and whether the carrier tracks its health care effectiveness performance using the health employer data information set (HEDIS), whether it

publicly reports its HEDIS data, and how interested persons can access its HEDIS data.

(3) Each carrier shall provide to all enrollees and prospective enrollees a list of available disclosure items.

(4) Nothing in this section requires a carrier or a health care provider to divulge proprietary information to an enrollee, including the specific contractual terms and conditions between a carrier and a particular provider.

(5) No carrier may advertise or market any health plan to the public, including to any employer as a plan that covers services that help prevent illness or promote the health of enrollees unless it:

(a) Provides all clinical preventive health services provided by the basic health plan, authorized by chapter 70.47 RCW;

(b) Monitors and reports annually to enrollees on standardized measures of health care and satisfaction of all enrollees in the health plan. Standardized measures for this purpose, include HEDIS, consumer assessment of health plans (CAHP) or other national standardized measurement systems adopted by national managed care accreditation organizations or state agencies that purchase managed health care services and approved by the commissioner; and

(c) Makes available upon request to enrollees its integrated plan to identify and manage the most prevalent diseases within its enrolled population, including cancer, heart disease, and stroke. Such plans must include means to identify enrollees with these diseases, implement evidence based screening, education, monitoring and treatment protocols, track patient and provider adherence to these protocols, measure health outcomes, and regularly report results to enrollees.

(6) No carrier may preclude or discourage its providers from informing an enrollee of the care he or she requires, including various treatment options, and whether in the providers' view such care is consistent with the plan's health coverage criteria, or otherwise covered by the enrollee's medical coverage agreement with the carrier. No carrier may prohibit, discourage, or penalize a provider otherwise practicing in compliance with the law from advocating on behalf of an enrollee with a carrier. Nothing in this section shall be construed to authorize a provider to bind a carrier to pay for any service.

(7) No carrier may preclude or discourage enrollees or those paying for their coverage from discussing the comparative merits of different carriers with their providers. This prohibition specifically includes prohibiting or limiting providers participating in those discussions even if critical of a carrier.

(8) Each carrier must communicate enrollee information required in this act by means that ensure that a substantial portion of the enrollee population can make use of the information.

#### NEW SECTION

**WAC 284-43-899 Effective date.** The effective date of WAC 284-43-130, 284-43-200, 284-43-251, 284-43-400, 284-43-410, 284-43-610, 284-43-615, 284-43-620, 284-43-630, and 284-43-820 is July 1, 2001.



**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 284-43-610 Definitions.

**WSR 01-03-034  
PERMANENT RULES  
OFFICE OF THE  
INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2000-08—Filed January 9, 2001,  
11:23 a.m.]

Date of Adoption: January 9, 2001.

Purpose: These rules are designed to comply with the federal Gramm-Leach-Bliley Act (GLB) which requires protection of consumer information and to implement RCW 48.43.505 the privacy provisions of the "Patient's Bill of Rights" (PBOR) chapter 5, Laws of 2000.

Statutory Authority for Adoption: RCW 48.43.505 and Gramm-Leach Bliley Act Public Law 102-106, sec. 501(b), sec. 505 (b)(2).

Adopted under notice filed as WSR 00-22-118 on November 1, 2000.

Changes Other than Editing from Proposed to Adopted Version: The GLB related rules are the NAIC model regulation with few exceptions. The only substantial difference between the Office of the Insurance Commissioner (OIC) rule and the NAIC regulation relates to health information in recognition of Washington's separate and stricter health information privacy laws. The GLB model act contains a section that grants insurers the right to use health information for a long list of functions. This section is replaced with a more general section that references state statutes and the new federal health information privacy regulations adopted by the United States Department of Health and Human Services (HHS) in December of 2000. The health information privacy rules explicitly permit insurers to comply with the OIC rule by following the HHS privacy rules except as the OIC rule otherwise requires. The rule generally directs all insurers to adopt health information privacy procedures and to disclose them to consumers. The major difference between HHS and the OIC rules concern PBOR requirements that insurers conform business practices to protect consumer privacy under state and federal law. This requires insurers to change such practices as the mailing of benefit payment explanations to persons who are not the patient. These non-disclosure provisions were refined and enforcement was postponed to December 2002 to reduce the expense of compliance and permit insurers to implement the procedures closer in time to the HHS regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 24, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 6, 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 9, 2001

Deborah Senn

Insurance Commissioner

**Chapter 284-04 WAC**

**PRIVACY OF CONSUMER FINANCIAL AND  
HEALTH INFORMATION**

**PART 1  
GENERAL PROVISIONS**

**NEW SECTION**

**WAC 284-04-120 Definitions.** As used in this chapter, unless the context requires otherwise:

(1) "Affiliate" means any company that controls, is controlled by or is under common control with another company.

(2) "Clear and conspicuous" means that a notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

**Examples.**

(a) Reasonably understandable. A licensee makes its notice reasonably understandable if it:

(i) Presents the information in the notice in clear, concise sentences, paragraphs, and sections;

(ii) Uses short explanatory sentences or bullet lists whenever possible;

(iii) Uses definite, concrete, everyday words and active voice whenever possible;

(iv) Avoids multiple negatives;

(v) Avoids legal and highly technical business terminology whenever possible; and

(vi) Avoids explanations that are imprecise and readily subject to different interpretations.

(b) Designed to call attention. A licensee designs its notice to call attention to the nature and significance of the information in it if the licensee:

(i) Uses a plain-language heading to call attention to the notice;

(ii) Uses a typeface and type size that are easy to read;

(iii) Provides wide margins and ample line spacing;

(iv) Uses boldface or italics for key words; and

(v) In a form that combines the licensee's notice with other information, uses distinctive type size, style, and graphic devices, such as shading or sidebars.

(c) Notices on websites. If a licensee provides a notice on a web page, the licensee designs its notice to call attention to the nature and significance of the information in it if the

licensee uses text or visual cues to encourage scrolling down the page if necessary to view the entire notice and ensure that other elements on the website (such as text, graphics, hyperlinks or sound) do not distract attention from the notice, and the licensee either:

(i) Places the notice on a screen that consumers frequently access, such as a page on which transactions are conducted; or

(ii) Places a link on a screen that consumers frequently access, such as a page on which transactions are conducted, that connects directly to the notice and is labeled appropriately to convey the importance, nature, and relevance of the notice.

(3) "Collect" means to obtain information that the licensee organizes or can retrieve by the name of an individual or by identifying number, symbol or other identifying particular assigned to the individual, irrespective of the source of the underlying information.

(4) "Commissioner" means the insurance commissioner of the state.

(5) "Company" means a corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship or similar organization.

(6) "Consumer" means an individual who seeks to obtain, obtains or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family or household purposes and about whom the licensee has nonpublic personal information, or that individual's legal representative.

#### Examples.

(a) An individual who provides nonpublic personal information to a licensee in connection with obtaining or seeking to obtain financial, investment or economic advisory services relating to an insurance product or service is a consumer regardless of whether the licensee establishes an ongoing advisory relationship.

(b) An applicant for insurance prior to the inception of insurance coverage is a licensee's consumer.

(c) An individual who is a consumer of another financial institution is not a licensee's consumer solely because the licensee is acting as agent for, or provides processing or other services to, that financial institution.

(d) An individual is a licensee's consumer if:

(i) The individual is a beneficiary of a life insurance policy underwritten by the licensee;

(ii) The individual is a claimant under an insurance policy issued by the licensee;

(iii) The individual is an insured or an annuitant under an insurance policy or an annuity, respectively, issued by the licensee; or

(iv) The individual is a mortgagor of a mortgage covered under a mortgage insurance policy; and

(v) The licensee discloses nonpublic personal financial information about the individual to a nonaffiliated third party other than as permitted under WAC 284-04-400, 284-04-405, and 284-04-410.

(e) Provided that the licensee provides the initial, annual and revised notices under WAC 284-04-200, 284-04-205, and 284-04-220 to the plan sponsor, group or blanket insurance policy holder or group annuity contract holder, workers'

compensation plan participant and further provided that the licensee does not disclose to a nonaffiliated third party nonpublic personal financial information about such an individual other than as permitted under WAC 284-04-400, 284-04-405, and 284-04-410, an individual is not the consumer of such licensee solely because he or she is:

(i) A participant or a beneficiary of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer or fiduciary;

(ii) Covered under a group or blanket insurance policy or annuity contract issued by the licensee; or

(iii) A beneficiary in a workers' compensation plan.

(f) The individuals described in (e)(i) through (iii) of this subsection are consumers of a licensee if the licensee does not meet all the conditions of (e) of this subsection.

(g) In no event shall such individuals, solely by virtue of the status described in (e)(i) through (iii) of this subsection, be deemed to be customers for purposes of this chapter.

(i) An individual is not a licensee's consumer solely because he or she is a beneficiary of a trust for which the licensee is a trustee.

(ii) An individual is not a licensee's consumer solely because he or she has designated the licensee as trustee for a trust.

(7) "Consumer reporting agency" has the same meaning as in section 603(f) of the Federal Fair Credit Reporting Act (15 U.S.C. 1681a(f)).

(8) "Control" means:

(a) Ownership, control or power to vote twenty-five percent or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;

(b) Control in any manner over the election of a majority of the directors, trustees or general partners (or individuals exercising similar functions) of the company; or

(c) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as the commissioner determines.

(9) "Customer" means a consumer who has a customer relationship with a licensee.

(10) "Customer relationship" means continuing relationship between a consumer and a licensee under which the licensee provides one or more insurance products or services to the consumer that are to be used primarily for personal, family or household purposes.

#### Examples.

(a) A consumer has a continuing relationship with a licensee if:

(i) The consumer is a current policyholder of an insurance product issued by or through the licensee; or

(ii) The consumer obtains financial, investment or economic advisory services relating to an insurance product or service from the licensee for a fee.

(b) A consumer does not have a continuing relationship with a licensee if:

(i) The consumer applies for insurance but does not purchase the insurance;

(ii) The licensee sells the consumer airline travel insurance in an isolated transaction;

(iii) The individual no longer is a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee;

(iv) The consumer is a beneficiary or claimant under a policy and has submitted a claim under a policy choosing a settlement option involving an ongoing relationship with the licensee;

(v) The consumer is a beneficiary or a claimant under a policy and has submitted a claim under that policy choosing a lump sum settlement option;

(vi) The customer's policy is lapsed, expired, paid up or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of twelve consecutive months, other than annual privacy notices, material required by law or regulation, communication at the direction of state or federal authority or promotional materials;

(vii) The individual is an insured or an annuitant under an insurance policy or annuity, respectively, but is not the policyholder or owner of the insurance policy or annuity; or

(viii) For the purposes of this chapter, if the individual's last known address according to the licensee's records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

(11) "Financial institution" means any institution the business of which is engaging in activities that are financial in nature or incidental to such financial activities as described in section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

(a) Financial institution does not include:

(i) Any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.);

(ii) The Federal Agricultural Mortgage Corporation or any entity charged and operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.); or

(iii) Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights) or similar transactions related to a transaction of a consumer, as long as such institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

(12) "Financial product or service" means any product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to such a financial activity under section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

Financial service includes a financial institution's evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service.

(13) "Health care" means: Preventive, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, services, procedures, tests or counseling that:

(a) Relates to the physical, mental or behavioral condition of an individual; or

(b) Affects the structure or function of the human body or any part of the human body, including the banking of blood, sperm, organs or any other tissue; or

(c) Prescribing, dispensing or furnishing to an individual drugs or biologicals, or medical devices or health care equipment and supplies.

(14) "Health care provider" means a physician or other health care practitioner licensed, accredited or certified to perform specified health services consistent with state law or a health care facility.

(15) "Health information" means any information or data, except age or gender, whether oral or recorded in any form or medium, created by or derived from a health care provider or the consumer that relates to:

(a) The past, present or future physical, mental or behavioral health or condition of an individual;

(b) The provision of health care to an individual; or

(c) Payment for the provision of health care to an individual.

(16) "Insurer" includes health care service contractor, HMO, and fraternal benefit society.

(17) "Insurance product or service" means any product or service that is offered by a licensee pursuant to the insurance laws of this state.

Insurance service includes a licensee's evaluation, brokerage or distribution of information that the licensee collects in connection with a request or an application from a consumer for an insurance product or service.

(18) "Licensee" means all licensed insurers, health care service contractors, HMO's, and fraternal benefit societies, producers and other persons licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered pursuant to the insurance law of this state.

(a) A licensee is not subject to the notice and opt out requirements for nonpublic personal financial information set forth in WAC 284-04-100 through 284-04-400 if the licensee is an employee, agent or other representative of another licensee ("the principal") and:

(i) The principal otherwise complies with, and provides the notices required by, the provisions of this regulation; and

(ii) The licensee does not disclose any nonpublic personal information to any person other than the principal or its affiliates in a manner permitted by this regulation.

(b)(i) Subject to (b)(ii) of this subsection, "licensee" shall also include an unauthorized insurer that accepts business placed through a licensed excess lines broker in this state, but only in regard to the excess lines placements placed pursuant to section [insert section] of this state's laws.

(ii) An excess lines broker or excess lines insurer shall be deemed to be in compliance with the notice and opt out requirements for nonpublic personal financial information set forth in WAC 284-04-100 through 284-04-400 provided:

(A) The broker or insurer does not disclose nonpublic personal information of a consumer or a customer to nonaffiliated third parties for any purpose, including joint servicing or marketing under WAC 284-04-405, except as permitted by WAC 284-04-410 and 284-04-415; and

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(B) The broker or insurer delivers a notice to the consumer at the time a customer relationship is established on which the following is printed in 16-point type:

**PRIVACY NOTICE**

"NEITHER THE U.S. BROKERS THAT HANDLED THIS INSURANCE NOR THE INSURERS THAT HAVE UNDERWRITTEN THIS INSURANCE WILL DISCLOSE NONPUBLIC PERSONAL INFORMATION CONCERNING THE BUYER TO NONAFFILIATES OF THE BROKERS OR INSURERS EXCEPT AS PERMITTED BY LAW"

(19) "Licensee" shall also include an unauthorized insurer that places business through a licensed excess line broker in this state, but only in regard to the excess line placements placed pursuant to of this state's laws.

(20) "Nonaffiliated third party" means any person except:

(a) A licensee's affiliate; or

(b) A person employed jointly by a licensee and any company that is not the licensee's affiliate (but nonaffiliated third party includes the other company that jointly employs the person).

Nonaffiliated third party includes any company that is an affiliate solely by virtue of the direct or indirect ownership or control of the company by the licensee or its affiliate in conducting merchant banking or investment banking activities of the type described in section 4(k)(4)(H) or insurance company investment activities of the type described in section 4(k)(4)(I) of the Federal Bank Holding Company Act (12 U.S.C. 1843(k)(4)(H) and (I.))

(21) "Nonpublic personal information" means nonpublic personal financial information and nonpublic personal health information.

(22)(a) "Nonpublic personal financial information" means:

(i) Personally identifiable financial information; and

(ii) Any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information that is not publicly available.

(b) Nonpublic personal financial information does not include:

(i) Health information;

(ii) Publicly available information, except as included on a list described in (a)(i) of this subsection; or

(iii) Any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived without using any personally identifiable financial information that is not publicly available.

Examples of lists.

Nonpublic personal financial information includes any list of individuals' names and street addresses that is derived in whole or in part using personally identifiable financial information that is not publicly available, such as account numbers.

Nonpublic personal financial information does not include any list of individuals' names and addresses that contains only publicly available information, is not derived in

whole or in part using personally identifiable financial information that is not publicly available, and is not disclosed in a manner that indicates that any of the individuals on the list is a consumer of a financial institution.

(23) "Nonpublic personal health information" means health information:

(a) That identifies an individual who is the subject of the information; or

(b) With respect to which there is a reasonable basis to believe that the information could be used to identify an individual.

(24) "Personally identifiable financial information" means any information:

(a) A consumer provides to a licensee to obtain an insurance product or service from the licensee;

(b) About a consumer resulting from any transaction involving an insurance product or service between a licensee and a consumer; or

(c) The licensee otherwise obtains about a consumer in connection with providing an insurance product or service to that consumer.

Examples.

(i) Information included. Personally identifiable financial information includes:

(A) Information a consumer provides to a licensee on an application to obtain an insurance product or service;

(B) Account balance information and payment history;

(C) The fact that an individual is or has been one of the licensee's customers or has obtained an insurance product or service from the licensee;

(D) Any information about the licensee's consumer if it is disclosed in a manner that indicates that the individual is or has been the licensee's consumer;

(E) Any information that a consumer provides to a licensee or that the licensee or its agent otherwise obtains in connection with collecting on a loan or servicing a loan;

(F) Any information the licensee collects through an Internet "cookie" (an information collecting device from a web server); and

(G) Information from a consumer report.

(ii) Information not included. Personally identifiable financial information does not include:

(A) Health information;

(B) A list of names and addresses of customers of an entity that is not a financial institution; and

(C) Information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names or addresses.

(25)(a) "Publicly available information" means any information that a licensee has a reasonable basis to believe is lawfully made available to the general public from:

(i) Federal, state or local government records;

(ii) Widely distributed media; or

(iii) Disclosures to the general public that are required to be made by federal, state or local law.

(b) Reasonable basis. A licensee has a reasonable basis to believe that information is lawfully made available to the general public if the licensee has taken steps to determine:

(i) That the information is of the type that is available to the general public; and

(ii) Whether an individual can direct that the information not be made available to the general public and, if so, that the licensee's consumer has not done so.

(c) Examples.

(i) Government records. Publicly available information in government records includes information in government real estate records and security interest filings.

(ii) Widely distributed media. Publicly available information from widely distributed media includes information from a telephone book, a television or radio program, a newspaper or a website that is available to the general public on an unrestricted basis. A website is not restricted merely because an Internet service provider or a site operator requires a fee or a password, so long as access is available to the general public.

(iii) Reasonable basis.

(A) A licensee has a reasonable basis to believe that mortgage information is lawfully made available to the general public if the licensee has determined that the information is of the type included on the public record in the jurisdiction where the mortgage would be recorded.

(B) A licensee has a reasonable basis to believe that an individual's telephone number is lawfully made available to the general public if the licensee has located the telephone number in the telephone book or the consumer has informed you that the telephone number is not unlisted.

## PART 2

### PRIVACY AND OPT OUT NOTICES FOR FINANCIAL INFORMATION

#### NEW SECTION

**WAC 284-04-200 Initial privacy notice to consumers required.** (1) Initial notice requirement. A licensee shall provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to:

(a) Customer. An individual who becomes the licensee's customer, not later than when the licensee establishes a customer relationship, except as provided in subsection (5) of this section; and

(b) Consumer. A consumer, before the licensee discloses any nonpublic personal financial information about the consumer to any nonaffiliated third party, if the licensee makes a disclosure other than as authorized by WAC 284-04-405 and 284-04-410;

(2) When initial notice to a consumer is not required. A licensee is not required to provide an initial notice to a consumer under subsection (1)(b) of this section if:

(a) The licensee does not disclose any nonpublic personal financial information about the consumer to any nonaffiliated third party, other than as authorized by WAC 284-04-405 and 284-04-410; and

The licensee does not have a customer relationship with the consumer; or

(b) A notice has been provided by an affiliated licensee, as long as the notice clearly identifies all licensees to whom

the notice applies and is accurate with respect to the licensee and the other institutions.

(3) When the licensee establishes a customer relationship.

(a) General rule. A licensee establishes a customer relationship at the time the licensee and the consumer enter into a continuing relationship.

(b) Examples of establishing customer relationship. A licensee establishes a customer relationship when the consumer:

(i) Becomes a policyholder of a licensee that is an insurer when the insurer delivers an insurance policy or contract to the consumer, or in the case of a licensee that is an insurance producer or insurance broker, obtains insurance through that licensee; or

(ii) Agrees to obtain financial, economic or investment advisory services relating to insurance products or services for a fee from the licensee.

(4) Existing customers. When an existing customer obtains a new insurance product or service from a licensee that is to be used primarily for personal, family or household purposes, the licensee satisfies the initial notice requirements of subsection (1) of this section as follows:

(a) The licensee may provide a revised policy notice, under WAC 284-04-220, that covers the customer's new insurance product or service; or

(b) If the initial, revised or annual notice that the licensee most recently provided to that customer was accurate with respect to the new insurance product or service, the licensee does not need to provide a new privacy notice under subsection (1) of this section.

(5) Exceptions to allow subsequent delivery of notice.

(a) A licensee may provide the initial notice required by subsection (1)(a) of this section within a reasonable time after the licensee establishes a customer relationship if:

(i) Establishing the customer relationship is not at the customer's election; or

(ii) Providing notice not later than when the licensee establishes a customer relationship would substantially delay the customer's transaction and the customer agrees to receive the notice at a later time.

(b) Examples of exceptions.

(i) Not at customer's election. Establishing a customer relationship is not at the customer's election if a licensee acquires or is assigned a customer's policy from another financial institution or residual market mechanism and the customer does not have a choice about the licensee's acquisition or assignment.

(ii) Substantial delay of customer's transaction. Providing notice not later than when a licensee establishes a customer relationship would substantially delay the customer's transaction when the licensee and the individual agree over the telephone to enter into a customer relationship involving prompt delivery of the insurance product or service.

(iii) No substantial delay of customer's transaction. Providing notice not later than when a licensee establishes a customer relationship would not substantially delay the customer's transaction when the relationship is initiated in person at the licensee's office or through other means by which the customer may view the notice, such as on a website.

(6) Delivery. When a licensee is required to deliver an initial privacy notice by this section, the licensee shall deliver it according to WAC 284-04-225. If the licensee uses a short-form initial notice for noncustomers according to WAC 284-04-210(4), the licensee may deliver its privacy notice according to WAC 284-04-210 (4)(c).

#### NEW SECTION

**WAC 284-04-205 Annual privacy notice to customers required.** (1)(a) General rule. A licensee shall provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship. Annually means at least once in any period of twelve consecutive months during which that relationship exists. A licensee may define the twelve-consecutive-month period, but the licensee shall apply it to the customer on a consistent basis.

(b) Example. A licensee provides a notice annually if it defines the twelve-consecutive-month period as a calendar year and provides the annual notice to the customer once in each calendar year following the calendar year in which the licensee provided the initial notice. For example, if a customer opens an account on any day of year one, the licensee shall provide an annual notice to that customer by December 31 of year two.

(2)(a) Termination of customer relationship. A licensee is not required to provide an annual notice to a former customer. A former customer is an individual with whom a licensee no longer has a continuing relationship.

(b) Examples.

(i) A licensee no longer has a continuing relationship with an individual if the individual no longer is a current policyholder of an insurance product or obtains insurance services with or through the licensee.

(ii) A licensee no longer has a continuing relationship with an individual if the individual's policy is lapsed, expired, paid up or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of twelve consecutive months, other than to provide annual privacy notices, material required by law or regulation, or promotional materials.

(iii) For the purposes of this regulation, a licensee no longer has a continuing relationship with an individual if the individual's last known address according to the licensee's records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

(iv) A licensee no longer has a continuing relationship with a customer in the case of providing real estate settlement services, at the time the customer completes execution of all documents related to the real estate closing, payment for those services has been received, or the licensee has completed all of its responsibilities with respect to the settlement, including filing documents on the public record, whichever is later.

(3) Delivery. When a licensee is required by this section to deliver an annual privacy notice, the licensee shall deliver it according to WAC 284-04-225.

#### NEW SECTION

**WAC 284-04-210 Information to be included in privacy notices.** (1) General rule. The initial, annual and revised privacy notices that a licensee provides under WAC 284-04-200, 284-04-205, and 284-04-220 shall include each of the following items of information, in addition to any other information the licensee wishes to provide, that applies to the licensee and to the consumers to whom the licensee sends its privacy notice:

(a) The categories of nonpublic personal financial information that the licensee collects;

(b) The categories of nonpublic personal financial information that the licensee discloses;

(c) The categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information, other than those parties to whom the licensee discloses information under WAC 284-04-405 and 284-04-410;

(d) The categories of nonpublic personal financial information about the licensee's former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information about the licensee's former customers, other than those parties to whom the licensee discloses information under WAC 284-04-405 and 284-04-410;

(e) If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under WAC 284-04-400 (and no other exception in WAC 284-04-405 and 284-04-410 applies to that disclosure), a separate description of the categories of information the licensee discloses and the categories of third parties with whom the licensee has contracted;

(f) An explanation of the consumer's right under WAC 284-04-300(1) to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the methods by which the consumer may exercise that right at that time;

(g) Any disclosures that the licensee makes under section 603(d)(2)(A)(iii) of the Federal Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)(iii)) (that is, notices regarding the ability to opt out of disclosures of information among affiliates);

(h) The licensee's policies and practices with respect to protecting the confidentiality and security of nonpublic personal information; and

(i) Any disclosure that the licensee makes under subsection (2) of this section.

(2) Description of parties subject to exceptions. If a licensee discloses nonpublic personal financial information as authorized under WAC 284-04-405 and 284-04-410, the licensee is not required to list those exceptions in the initial or annual privacy notices required by WAC 284-04-200 and 284-04-205. When describing the categories of parties to whom disclosure is made, the licensee is required to state

only that it makes disclosures to other affiliated or nonaffiliated third parties, as applicable, as permitted by law.

(3) Examples.

(a) Categories of nonpublic personal financial information that the licensee collects. A licensee satisfies the requirement to categorize the nonpublic personal financial information it collects if the licensee categorizes it according to the source of the information, as applicable:

(i) Information from the consumer;

(ii) Information about the consumer's transactions with the licensee or its affiliates;

(iii) Information about the consumer's transactions with nonaffiliated third parties; and

(iv) Information from a consumer reporting agency.

(b) Categories of nonpublic personal financial information a licensee discloses.

(i) A licensee satisfies the requirement to categorize nonpublic personal financial information it discloses if the licensee categorizes the information according to source, as described in (a) of this subsection, as applicable, and provides a few examples to illustrate the types of information in each category. These might include:

(A) Information from the consumer, including application information, such as assets and income and identifying information, such as name, address, and social security number;

(B) Transaction information, such as information about balances, payment history, and parties to the transaction; and

(C) Information from consumer reports, such as a consumer's creditworthiness and credit history.

(ii) A licensee does not adequately categorize the information that it discloses if the licensee uses only general terms, such as transaction information about the consumer.

(iii) If a licensee reserves the right to disclose all of the nonpublic personal financial information about consumers that it collects, the licensee may simply state that fact without describing the categories or examples of nonpublic personal information that the licensee discloses.

(c) Categories of affiliates and nonaffiliated third parties to whom the licensee discloses.

(i) A licensee satisfies the requirement to categorize the affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information about consumers if the licensee identifies the types of businesses in which they engage.

(ii) Types of businesses may be described by general terms only if the licensee uses a few illustrative examples of significant lines of business. For example, a licensee may use the term financial products or services if it includes appropriate examples of significant lines of businesses, such as life insurer, automobile insurer, consumer banking or securities brokerage.

(iii) A licensee also may categorize the affiliates and nonaffiliated third parties to whom it discloses nonpublic personal financial information about consumers using more detailed categories.

(d) Disclosures under exception for service providers and joint marketers. If a licensee discloses nonpublic personal financial information under the exception in WAC 284-04-400 to a nonaffiliated third party to market products or

services that it offers alone or jointly with another financial institution, the licensee satisfies the disclosure requirement of subsection (1)(e) of this section if it:

(i) Lists the categories of nonpublic personal financial information it discloses, using the same categories and examples the licensee used to meet the requirements of subsection (1)(b) of this section, as applicable; and

(ii) States whether the third party is:

(A) A service provider that performs marketing services on the licensee's behalf or on behalf of the licensee and another financial institution; or

(B) A financial institution with whom the licensee has a joint marketing agreement.

(e) Simplified notices. If a licensee does not disclose, and does not wish to reserve the right to disclose, nonpublic personal financial information about customers or former customers to affiliates or nonaffiliated third parties except as authorized under WAC 284-04-405 and 284-04-410, the licensee may simply state that fact, in addition to the information it shall provide under subsections (1)(h), (i) and (2) of this section.

(f) Confidentiality and security. A licensee describes its policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information if it does both of the following:

(i) Describes in general terms who is authorized to have access to the information; and

(ii) States whether the licensee has security practices and procedures in place to ensure the confidentiality of the information in accordance with the licensee's policy. The licensee is not required to describe technical information about the safeguards it uses.

(4) Short-form initial notice with opt out notice for non-customers.

(a) A licensee may satisfy the initial notice requirements in WAC 284-04-200 (1)(b) for a consumer who is not a customer by providing a short-form initial notice at the same time as the licensee delivers an opt out notice as required in WAC 284-04-215.

(b) A short-form initial notice shall:

(i) Be clear and conspicuous;

(ii) State that the licensee's privacy notice is available upon request; and

(iii) Explain a reasonable means by which the consumer may obtain that notice.

(c) The licensee shall deliver its short-form initial notice according to WAC 284-04-225. The licensee is not required to deliver its privacy notice with its short-form initial notice. The licensee instead may simply provide the consumer a reasonable means to obtain its privacy notice. If a consumer who receives the licensee's short-form notice requests the licensee's privacy notice, the licensee shall deliver its privacy notice according to WAC 284-04-225.

(d) Examples of obtaining privacy notice. The licensee provides a reasonable means by which a consumer may obtain a copy of its privacy notice if the licensee:

(i) Provides a toll-free telephone number that the consumer may call to request the notice; or

(ii) For a consumer who conducts business in person at the licensee's office, maintain copies of the notice on hand

that the licensee provides to the consumer immediately upon request.

(5) Future disclosures. The licensee's notice may include:

(a) Categories of nonpublic personal financial information that the licensee reserves the right to disclose in the future, but do not currently disclose; and

(b) Categories of affiliates or nonaffiliated third parties to whom the licensee reserves the right in the future to disclose, but to whom the licensee does not currently disclose, nonpublic personal financial information.

(6) Sample clauses. Sample clauses illustrating some of the notice content required by this section are included in Appendix A of this regulation.

## NEW SECTION

**WAC 284-04-215 Form of opt out notice to consumers and opt out methods.** (1)(a) Form of opt out notice. If a licensee is required to provide an opt out notice under WAC 284-04-300(1), it shall provide a clear and conspicuous notice to each of its consumers that accurately explains the right to opt out under that section. The notice shall state:

(i) That the licensee discloses or reserves the right to disclose nonpublic personal financial information about its consumer to a nonaffiliated third party;

(ii) That the consumer has the right to opt out of that disclosure; and

(iii) A reasonable means by which the consumer may exercise the opt out right.

(b) Examples.

(i) Adequate opt out notice. A licensee provides adequate notice that the consumer can opt out of the disclosure of nonpublic personal financial information to a nonaffiliated third party if the licensee:

(A) Identifies all of the categories of nonpublic personal financial information that it discloses or reserves the right to disclose, and all of the categories of nonaffiliated third parties to which the licensee discloses the information, as described in WAC 284-04-210 (1)(b) and (c), and states that the consumer can opt out of the disclosure of that information; and

(B) Identifies the insurance products or services that the consumer obtains from the licensee, either singly or jointly, to which the opt out direction would apply.

(ii) Reasonable opt out means. A licensee provides a reasonable means to exercise an opt out right if it:

(A) Designates check-off boxes in a prominent position on the relevant forms with the opt out notice;

(B) Includes a reply form together with the opt out notice;

(C) Provides an electronic means to opt out, such as a form that can be sent via electronic mail or a process at the licensee's website, if the consumer agrees to the electronic delivery of information; or

(D) Provides a toll-free telephone number that consumers may call to opt out.

(iii) Unreasonable opt out means. A licensee does not provide a reasonable means of opting out if:

(A) The only means of opting out is for the consumer to write his or her own letter to exercise that opt out right; or

(B) The only means of opting out as described in any notice subsequent to the initial notice is to use a check-off box that the licensee provided with the initial notice but did not include with the subsequent notice.

(iv) Specific opt out means. A licensee may require each consumer to opt out through a specific means, as long as that means is reasonable for that consumer.

(2) Same form as initial notice permitted. A licensee may provide the opt out notice together with or on the same written or electronic form as the initial notice the licensee provides in accordance with WAC 284-04-200.

(3) Initial notice required when opt out notice delivered subsequent to initial notice. If a licensee provides the opt out notice later than required for the initial notice in accordance with 284-04-200, the licensee shall also include a copy of the initial notice with the opt out notice in writing or, if the consumer agrees, electronically.

(4) Joint relationships.

(a) If two or more consumers jointly obtain an insurance product or service from a licensee, the licensee may provide a single opt out notice. The licensee's opt out notice shall explain how the licensee will treat an opt out direction by a joint consumer (as explained in (e) of this subsection).

(b) Any of the joint consumers may exercise the right to opt out. The licensee may either:

(i) Treat an opt out direction by a joint consumer as applying to all of the associated joint consumers; or

(ii) Permit each joint consumer to opt out separately.

(c) If a licensee permits each joint consumer to opt out separately, the licensee shall permit one of the joint consumers to opt out on behalf of all of the joint consumers.

(d) A licensee may not require all joint consumers to opt out before it implements any opt out direction.

(e) Example. If John and Mary are both named policyholders on a homeowner's insurance policy issued by a licensee and the licensee sends policy statements to John's address, the licensee may do any of the following, but it shall explain in its opt out notice which opt out policy the licensee will follow:

(i) Send a single opt out notice to John's address, but the licensee shall accept an opt out direction from either John or Mary.

(ii) Treat an opt out direction by either John or Mary as applying to the entire policy. If the licensee does so and John opts out, the licensee may not require Mary to opt out as well before implementing John's opt out direction.

(iii) Permit John and Mary to make different opt out directions. If the licensee does so:

(A) It shall permit John and Mary to opt out for each other;

(B) If both opt out, the licensee shall permit both of them to notify it in a single response (such as on a form or through a telephone call); and

(C) If John opts out and Mary does not, the licensee may only disclose nonpublic personal financial information about Mary, but not about John and not about John and Mary jointly.

(5) Time to comply with opt out. A licensee shall comply with a consumer's opt out direction as soon as reasonably practicable after the licensee receives it.



(6) Continuing right to opt out. A consumer may exercise the right to opt out at any time.

(7) Duration of consumer's opt out direction.

(a) A consumer's direction to opt out under this section is effective until the consumer revokes it in writing or, if the consumer agrees, electronically.

(b) When a customer relationship terminates, the customer's opt out direction continues to apply to the nonpublic personal financial information that the licensee collected during or related to that relationship. If the individual subsequently establishes a new customer relationship with the licensee, the opt out direction that applied to the former relationship does not apply to the new relationship.

(8) Delivery. When a licensee is required to deliver an opt out notice by this section, the licensee shall deliver it according to WAC 284-04-225.

### NEW SECTION

**WAC 284-04-220 Revised privacy notices.** (1) General rule. Except as otherwise authorized in this regulation, a licensee shall not, directly or through an affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party other than as described in the initial notice that the licensee provided to that consumer under WAC 284-04-200, unless:

(a) The licensee has provided to the consumer a clear and conspicuous revised notice that accurately describes its policies and practices;

(b) The licensee has provided to the consumer a new opt out notice;

(c) The licensee has given the consumer a reasonable opportunity, before the licensee discloses the information to the nonaffiliated third party, to opt out of the disclosure; and

(d) The consumer does not opt out.

(2) Examples.

(a) Except as otherwise permitted by WAC 284-04-400, 284-04-405, and 284-04-410, a licensee shall provide a revised notice before it:

(i) Discloses a new category of nonpublic personal financial information to any nonaffiliated third party;

(ii) Discloses nonpublic personal financial information to a new category of nonaffiliated third party; or

(iii) Discloses nonpublic personal financial information about a former customer to a nonaffiliated third party, if that former customer has not had the opportunity to exercise an opt out right regarding that disclosure.

(b) A revised notice is not required if the licensee discloses nonpublic personal financial information to a new nonaffiliated third party that the licensee adequately described in its prior notice.

(3) Delivery. When a licensee is required to deliver a revised privacy notice by this section, the licensee shall deliver it according to WAC 284-04-225.

### NEW SECTION

**WAC 284-04-225 Delivery.** (1) How to provide notices. A licensee shall provide any notices that this regulation requires so that each consumer can reasonably be

expected to receive actual notice in writing or, if the consumer agrees, electronically.

(2)(a) Examples of reasonable expectation of actual notice. A licensee may reasonably expect that a consumer will receive actual notice if the licensee:

(i) Hand-delivers a printed copy of the notice to the consumer;

(ii) Mails a printed copy of the notice to the last known address of the consumer separately, or in a policy, billing or other written communication;

(iii) For a consumer who conducts transactions electronically, posts the notice on the electronic site and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular insurance product or service;

(iv) For an isolated transaction with a consumer, such as the licensee providing an insurance quote or selling the consumer travel insurance, posts the notice and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining the particular insurance product or service.

(b) Examples of unreasonable expectation of actual notice. A licensee may not, however, reasonably expect that a consumer will receive actual notice of its privacy policies and practices if it:

(i) Only posts a sign in its office or generally publish advertisements of its privacy policies and practices; or

(ii) Sends the notice via electronic mail to a consumer who does not obtain an insurance product or service from the licensee electronically.

(3) Annual notices only. A licensee may reasonably expect that a customer will receive actual notice of the licensee's annual privacy notice if:

(a) The customer uses the licensee's website to access insurance products and services electronically and agrees to receive notices at the website and the licensee posts its current privacy notice continuously in a clear and conspicuous manner on the website; or

(b) The customer has requested that the licensee refrain from sending any information regarding the customer relationship, and the licensee's current privacy notice remains available to the customer upon request.

(4) Oral description of notice insufficient. A licensee may not provide any notice required by this regulation solely by orally explaining the notice, either in person or over the telephone.

(5) Retention or accessibility of notices for customers.

(a) For customers only, a licensee shall provide the initial notice required by WAC 284-04-200 (1)(a), the annual notice required by WAC 284-04-205(1), and the revised notice required by WAC 284-04-220 so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically.

(b) Examples of retention or accessibility. A licensee provides a privacy notice to the customer so that the customer can retain it or obtain it later if the licensee:

(i) Hand-delivers a printed copy of the notice to the customer;

(ii) Mails a printed copy of the notice to the last known address of the customer; or

(iii) Makes its current privacy notice available on a website (or a link to another website) for the customer who

obtains an insurance product or service electronically and agrees to receive the notice at the website.

(6) Joint notice with other financial institutions. A licensee may provide a joint notice from the licensee and one or more of its affiliates or other financial institutions, as identified in the notice, as long as the notice is accurate with respect to the licensee and the other institutions. A licensee also may provide a notice on behalf of another financial institution.

(7) Joint relationships. If two or more consumers jointly obtain an insurance product or service from a licensee, the licensee may satisfy the initial, annual and revised notice requirements of WAC, respectively, by providing one notice to those consumers jointly.

### PART 3

## LIMITS ON DISCLOSURES OF FINANCIAL INFORMATION

### NEW SECTION

**WAC 284-04-300 Limits on disclosure of nonpublic personal financial information to nonaffiliated third parties.** (1)(a) Conditions for disclosure. Except as otherwise authorized in this regulation, a licensee may not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party unless:

- (i) The licensee has provided to the consumer an initial notice as required under WAC 284-04-200;
- (ii) The licensee has provided to the consumer an opt out notice as required in WAC 284-04-215;
- (iii) The licensee has given the consumer a reasonable opportunity, before it discloses the information to the nonaffiliated third party, to opt out of the disclosure; and
- (iv) The consumer does not opt out.

(b) Opt out definition. Opt out means a direction by the consumer that the licensee not disclose nonpublic personal financial information about that consumer to a nonaffiliated third party, other than as permitted by WAC 284-04-400, 284-04-405, and 284-04-410.

(c) Examples of reasonable opportunity to opt out. A licensee provides a consumer with a reasonable opportunity to opt out if:

(i) By mail. The licensee mails the notices required in (a) of this subsection to the consumer and allows the consumer to opt out by mailing a form, calling a toll-free telephone number or any other reasonable means within thirty days from the date the licensee mailed the notices.

(ii) By electronic means. A customer opens an on-line account with a licensee and agrees to receive the notices required in (a) of this subsection electronically, and the licensee allows the customer to opt out by any reasonable means within thirty days after the date that the customer acknowledges receipt of the notices in conjunction with opening the account.

(iii) Isolated transaction with consumer. For an isolated transaction such as providing the consumer with an insurance quote, a licensee provides the consumer with a reasonable

opportunity to opt out if the licensee provides the notices required in (a) of this subsection at the time of the transaction and requests that the consumer decide, as a necessary part of the transaction, whether to opt out before completing the transaction.

(2) Application of opt out to all consumers and all nonpublic personal financial information.

(a) A licensee shall comply with this section, regardless of whether the licensee and the consumer have established a customer relationship.

(b) Unless a licensee complies with this section, the licensee may not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer that the licensee has collected, regardless of whether the licensee collected it before or after receiving the direction to opt out from the consumer.

(3) Partial opt out. A licensee may allow a consumer to select certain nonpublic personal financial information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

### NEW SECTION

**WAC 284-04-305 Limits on redisclosure and reuse of nonpublic personal financial information.** (1)(a) Information the licensee receives under an exception. If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution under an exception in WAC 284-04-405 or 284-04-410, the licensee's disclosure and use of that information is limited as follows:

(i) The licensee may disclose the information to the affiliates of the financial institution from which the licensee received the information;

(ii) The licensee may disclose the information to its affiliates, but the licensee's affiliates may, in turn, disclose and use the information only to the extent that the licensee may disclose and use the information; and

(iii) The licensee may disclose and use the information pursuant to an exception in WAC 284-04-405 or 284-04-410, in the ordinary course of business to carry out the activity covered by the exception under which the licensee received the information.

(b) Example. If a licensee receives information from a nonaffiliated financial institution for claims settlement purposes, the licensee may disclose the information for fraud prevention, or in response to a properly authorized subpoena. The licensee may not disclose that information to a third party for marketing purposes or use that information for its own marketing purposes.

(2)(a) Information a licensee receives outside of an exception. If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution other than under an exception in WAC 284-04-405 or 284-04-410, the licensee may disclose the information only:

(i) To the affiliates of the financial institution from which the licensee received the information;

(ii) To its affiliates, but its affiliates may, in turn, disclose the information only to the extent that the licensee may disclose the information; and

(iii) To any other person, if the disclosure would be lawful if made directly to that person by the financial institution from which the licensee received the information.

(b) Example. If a licensee obtains a customer list from a nonaffiliated financial institution outside of the exceptions in WAC 284-04-405 or 284-04-410:

(i) The licensee may use that list for its own purposes; and

(ii) The licensee may disclose that list to another nonaffiliated third party only if the financial institution from which the licensee purchased the list could have lawfully disclosed the list to that third party. That is, the licensee may disclose the list in accordance with the privacy policy of the financial institution from which the licensee received the list, as limited by the opt out direction of each consumer whose nonpublic personal financial information the licensee intends to disclose, and the licensee may disclose the list in accordance with an exception in WAC 284-04-405 or 284-04-410, such as to the licensee's attorneys or accountants.

(3) Information a licensee discloses under an exception. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under an exception in WAC 284-04-405 or 284-04-410 of this regulation, the third party may disclose and use that information only as follows:

(a) The third party may disclose the information to the licensee's affiliates;

(b) The third party may disclose the information to its affiliates, but its affiliates may, in turn, disclose and use the information only to the extent that the third party may disclose and use the information; and

(c) The third party may disclose and use the information pursuant to an exception in WAC 284-04-405 or 284-04-410 in the ordinary course of business to carry out the activity covered by the exception under which it received the information.

(4) Information a licensee discloses outside of an exception. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party other than under an exception in WAC 284-04-405 or 284-04-410, the third party may disclose the information only:

(a) To the licensee's affiliates;

(b) To the third party's affiliates, but the third party's affiliates, in turn, may disclose the information only to the extent the third party can disclose the information; and

(c) To any other person, if the disclosure would be lawful if the licensee made it directly to that person.

#### NEW SECTION

**WAC 284-04-310 Limits on sharing account number information for marketing purposes.** (1) General prohibition on disclosure of account numbers. A licensee shall not, directly or through an affiliate, disclose, other than to a consumer reporting agency, a policy number or similar form of access number or access code for a consumer's policy or transaction account to any nonaffiliated third party for use in telemarketing, direct mail marketing or other marketing through electronic mail to the consumer.

(2) Exceptions. Subsection (1) of this section does not apply if a licensee discloses a policy number or similar form of access number or access code:

(a) To the licensee's service provider solely in order to perform marketing for the licensee's own products or services, as long as the service provider is not authorized to directly initiate charges to the account;

(b) To a licensee who is a producer solely in order to perform marketing for the licensee's own products or services; or

(c) To a participant in an affinity or similar program where the participants in the program are identified to the customer when the customer enters into the program.

(3) Examples.

(a) Policy number. A policy number, or similar form of access number or access code, does not include a number or code in an encrypted form, as long as the licensee does not provide the recipient with a means to decode the number or code.

(b) Policy or transaction account. For the purposes of this section, a policy or transaction account is an account other than a deposit account or a credit card account. A policy or transaction account does not include an account to which third parties cannot initiate charges.

#### **PART 4**

#### **EXCEPTIONS TO LIMITS ON DISCLOSURES OF FINANCIAL INFORMATION**

#### NEW SECTION

**WAC 284-04-400 Exception to opt out requirements for disclosure of nonpublic personal financial information for service providers and joint marketing.** (1) General rule.

(a) The opt out requirements in WAC 284-04-215 and 284-04-300 do not apply when a licensee provides nonpublic personal financial information to a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf, if the licensee:

(i) Provides the initial notice in accordance with WAC 284-04-200; and

(ii) Enters into a contractual agreement with the third party that prohibits the third party from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information, including use under an exception in WAC 284-04-405 or 284-04-410 in the ordinary course of business to carry out those purposes.

(b) Example. If a licensee discloses nonpublic personal financial information under this section to a financial institution with which the licensee performs joint marketing, the licensee's contractual agreement with that institution meets the requirements of (a)(ii) of this subsection if it prohibits the institution from disclosing or using the nonpublic personal financial information except as necessary to carry out the joint marketing or under an exception in WAC 284-04-405 or 284-04-410 in the ordinary course of business to carry out that joint marketing.

(2) Service may include joint marketing. The services a nonaffiliated third party performs for a licensee under sub-

section (1) of this section may include marketing of the licensee's own products or services or marketing of financial products or services offered pursuant to joint agreements between the licensee and one or more financial institutions.

(3) Definition of joint agreement. For purposes of this section, joint agreement means a written contract pursuant to which a licensee and one or more financial institutions jointly offer, endorse or sponsor an insurance product or service.

#### NEW SECTION

**WAC 284-04-405 Exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information for processing and servicing transactions.** (1) Exceptions for processing transactions at consumer's request. The requirements for initial notice in WAC 284-04-200 (1)(b), the opt out in WAC 284-04-215 and 284-04-300 and service providers and joint marketing in WAC 284-04-400 do not apply if the licensee discloses nonpublic personal financial information as necessary to effect, administer or enforce a transaction that a consumer requests or authorizes, or in connection with:

(a) Servicing or processing an insurance product or service that a consumer requests or authorizes;

(b) Maintaining or servicing the consumer's account with a licensee, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity;

(c) A proposed or actual securitization, secondary market sale (including sales of servicing rights) or similar transaction related to a transaction of the consumer; or

(d) Reinsurance or stop loss or excess loss insurance.

(2) Necessary to effect, administer or enforce a transaction means that the disclosure is:

(a) Required, or is one of the lawful or appropriate methods, to enforce the licensee's rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or

(b) Required, or is a usual, appropriate or acceptable method:

(i) To carry out the transaction or the product or service business of which the transaction is a part, and record, service or maintain the consumer's account in the ordinary course of providing the insurance product or service;

(ii) To administer or service benefits or claims relating to the transaction or the product or service business of which it is a part;

(iii) To provide a confirmation, statement or other record of the transaction, or information on the status or value of the insurance product or service to the consumer or the consumer's agent or broker;

(iv) To accrue or recognize incentives or bonuses associated with the transaction that are provided by a licensee or any other party;

(v) To underwrite insurance at the consumer's request or for any of the following purposes as they relate to a consumer's insurance: Account administration, reporting, investigating or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims,

administering insurance benefits (including utilization review activities), participating in research projects or as otherwise required or specifically permitted by federal or state law; or

(vi) In connection with:

(A) The authorization, settlement, billing, processing, clearing, transferring, reconciling or collection of amounts charged, debited or otherwise paid using a debit, credit or other payment card, check or account number, or by other payment means;

(B) The transfer of receivables, accounts or interests therein; or

(C) The audit of debit, credit or other payment information.

#### NEW SECTION

**WAC 284-04-410 Other exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information.** (1) Exceptions to opt out requirements. The requirements for initial notice to consumers in WAC 284-04-200 (1)(b), the opt out in WAC 284-04-215 and 284-04-300, and service providers and joint marketing in WAC 284-04-400 do not apply when a licensee discloses nonpublic personal financial information:

(a) With the consent or at the direction of the consumer, provided that the consumer has not revoked the consent or direction;

(b)(i) To protect the confidentiality or security of a licensee's records pertaining to the consumer, service, product or transaction;

(ii) To protect against or prevent actual or potential fraud or unauthorized transactions;

(iii) For required institutional risk control or for resolving consumer disputes or inquiries;

(iv) To persons holding a legal or beneficial interest relating to the consumer; or

(v) To persons acting in a fiduciary or representative capacity on behalf of the consumer;

(c) To provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies that are rating a licensee, persons that are assessing the licensee's compliance with industry standards, and the licensee's attorneys, accountants and auditors;

(d) To the extent specifically permitted or required under other provisions of law and in accordance with the Federal Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.), to law enforcement agencies (including the Federal Reserve Board, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, the Securities and Exchange Commission), the Secretary of the Treasury, with respect to 31 U.S.C. Chapter 53, Subchapter II (Records and Reports on Monetary Instruments and Transactions) and 12 U.S.C. Chapter 21 (Financial Recordkeeping), a state insurance authority, and the Federal Trade Commission), self-regulatory organizations or for an investigation on a matter related to public safety;

(e)(i) To a consumer reporting agency in accordance with the Federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); or

(ii) From a consumer report reported by a consumer reporting agency;

(f) In connection with a proposed or actual sale, merger, transfer or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal financial information concerns solely consumers of the business or unit; or

(g)(i) To comply with federal, state or local laws, rules and other applicable legal requirements;

(ii) To comply with a properly authorized civil, criminal or regulatory investigation, or subpoena or summons by federal, state or local authorities;

(iii) To respond to judicial process or government regulatory authorities having jurisdiction over a licensee for examination, compliance or other purposes as authorized by law; or

(h) For purposes related to the replacement of a group benefit plan, a group health plan, a group welfare plan or a workers' compensation plan.

(2) Example of revocation of consent. A consumer may revoke consent by subsequently exercising the right to opt out of future disclosures of nonpublic personal information as permitted under WAC 284-04-215(6).

## PART 5

### RULES FOR HEALTH INFORMATION

#### NEW SECTION

**WAC 284-04-500 Health information privacy policies and procedures.** All licensees shall develop and implement written policies, standards and procedures for the management of health information, including policies, standards and procedures to guard against the unauthorized collection, use or disclosure of nonpublic personal health information by the licensee consistent with regulations adopted by the U.S. Department of Health and Human Services governing health information privacy (45 CFR 160 through 164) which shall include:

(1) Limitation on access to health information by only those persons who need to use the health information in order to perform their jobs;

(2) Appropriate training for all employees;

(3) Disciplinary measures for violations of the health information policies, standards and procedures;

(4) Identification of the job titles and job descriptions of persons that are authorized to disclose nonpublic personal health information;

(5) Procedures for authorizing and restricting the collection, use or disclosure of nonpublic personal health information;

(6) Methods for exercising the right to access and amend incorrect nonpublic personal health information;

(7) Methods for handling, disclosing, storing and disposing of health information;

(8) Periodic monitoring of the employee's compliance with the licensee's policies, standards and procedures in a manner sufficient for the licensee to determine compliance and to enforce its policies, standards and procedures; and

(9) Methods for informing and allowing an individual who is the subject of nonpublic personal health information to request specialized disclosure or nondisclosure of nonpublic personal health information as required in this chapter.

(10) A licensee shall make the health information policies, standards and procedures developed pursuant to this section available for review by the commissioner.

#### NEW SECTION

**WAC 284-04-505 Nonpublic personal health information—When authorization required.** (1) A licensee shall not disclose nonpublic personal health information about a consumer or customer unless an authorization is obtained from the consumer or customer whose nonpublic personal health information is sought to be disclosed.

(2) Except as provided in WAC 284-04-510, nothing in this section shall prohibit, restrict or require an authorization for the disclosure of nonpublic personal health information by a licensee for the performance of insurance functions by or on behalf of the licensee, for activities permitted under RCW 70.02.050, and for activities permitted under health privacy regulations adopted by the U.S. Department of Health and Human Services governing health information privacy.

#### NEW SECTION

**WAC 284-04-510 Right to limit disclosure of health information.** (1) Notwithstanding other provisions of this chapter, a licensee shall limit disclosure of any information, including health information, about an individual who is the subject of the information if the individual clearly states in writing that disclosure to specified individuals of all or part of that information could jeopardize the safety of the individual. Disclosure of information under this subsection shall be limited consistent with the individual's request, such as a request for the licensee to not release any information to a spouse to prevent domestic violence.

(2) Notwithstanding any insurance law requiring the disclosure of information, a licensee shall not disclose nonpublic personal health information concerning health services related to reproductive health, sexually transmitted diseases, chemical dependency and mental health, including mailing appointment notices, calling the home to confirm appointments, or mailing a bill or explanation of benefits to a policyholder or certificateholder, if the individual who is the subject of the information makes a written request. In addition, a licensee shall not require an adult individual to obtain the policyholder's or other covered person's authorization to receive health care services or to submit a claim.

(3)(a) A licensee shall recognize the right of any minor who may obtain health care without the consent of a parent or legal guardian pursuant to state or federal law, to exclusively exercise rights granted under this section regarding health information; and

(b) Shall not disclose any nonpublic personal health information related to any health care service to which the minor has lawfully consented, including mailing appointment notices, calling the home to confirm appointments, or mailing a bill or explanation of benefits to a policyholder or other covered person, without the express authorization of the minor. In addition, a licensee shall not require the minor to obtain the policyholder's or other covered person's authorization to receive health care services or to submit a claim as to health care which the minor may obtain without parental consent under state or federal law.

(4) When requesting nondisclosure, the individual shall include in the request:

- (a) Their name and address;
- (b) Description of the type of information that should not be disclosed;
- (c) In the case of reproductive health information, the type of services subject to nondisclosure;
- (d) The identity or description of the types of persons from whom information should be withheld;
- (e) Information as to how payment will be made for any benefit cost sharing;
- (f) A phone number or e-mail address where the individual may be reached if additional information or clarification is necessary to satisfy the request.

#### NEW SECTION

**WAC 284-04-515 Authorizations.** (1) A valid authorization to disclose nonpublic personal health information pursuant to this Article V shall be in written or electronic form and shall contain all of the following:

- (a) The identity of the consumer or customer who is the subject of the nonpublic personal health information.
- (b) A general description of the types of nonpublic personal health information to be disclosed.
- (c) General descriptions of the parties to whom the licensee discloses nonpublic personal health information, the purpose of the disclosure and how the information will be used.
- (d) The signature of the consumer or customer who is the subject of the nonpublic personal health information or the individual who is legally empowered to grant authority and the date signed.
- (e) Notice of the length of time for which the authorization is valid and that the consumer or customer may revoke the authorization at any time and the procedure for making such a revocation.

(2) An authorization for the purposes of this Article V shall specify a length of time for which the authorization shall remain valid, which in no event shall be for more than twenty-four months.

(3) A consumer or customer who is the subject of nonpublic personal health information may revoke an authorization provided pursuant to this Article V at any time, subject to the rights of any individual who acted in reliance on the authorization prior to notice of the revocation.

(4) A licensee shall retain the authorization or a copy thereof in the record of the individual who is the subject of nonpublic personal health information.

(5) Notwithstanding the provisions of this section, a licensee complying with regulations adopted by the U.S. Department of Health and Human Services governing authorization for the release of health information satisfies the provisions of this section.

#### NEW SECTION

**WAC 284-04-520 Authorization request delivery.** A request for authorization and an authorization form may be delivered to a consumer or a customer as part of an opt-out notice pursuant to WAC 284-04-225, provided that the request and the authorization form are clear and conspicuous. An authorization form is not required to be delivered to the consumer or customer or included in any other notices unless the licensee intends to disclose protected health information pursuant to WAC 284-04-500(1).

#### NEW SECTION

**WAC 284-04-525 Relationship to state and federal laws.** In the event of a conflict between this chapter and the state or federal laws, licensees shall comply with the state and federal laws governing privacy, as such laws relate to the business of insurance, except as expressly required by this chapter.

### PART 6

#### ADDITIONAL PROVISIONS

#### NEW SECTION

**WAC 284-04-600 Protection of Fair Credit Reporting Act.** Nothing in this regulation shall be construed to modify, limit or supersede the operation of the Federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), and no inference shall be drawn on the basis of the provisions of this regulation regarding whether information is transaction or experience information under section 603 of that act.

#### NEW SECTION

**WAC 284-04-605 Nondiscrimination.** (1) A licensee shall not discriminate against any consumer or customer because that consumer or customer has opted out from the disclosure of his or her nonpublic personal financial information pursuant to the provisions of this regulation.

(2) A licensee shall not discriminate against a consumer or customer because that consumer or customer has not granted authorization for the disclosure of his or her nonpublic personal health information pursuant to the provisions of this regulation.

#### NEW SECTION

**WAC 284-04-610 Violation.** A violation of this regulation shall be deemed to be an unfair method of competition or an unfair or deceptive act and practice in this state.

**NEW SECTION**

**WAC 284-04-615 Severability.** If any section or portion of a section of this regulation or the applicability thereof to any person or circumstance is held invalid by a court, the remainder of the regulation or the applicability of the provision to other persons or circumstances shall not be affected.

**NEW SECTION**

**WAC 284-04-620 Effective date; transition rule.** (1) Effective date. These rules are effective July 1, 2001.

(2)(a) Notice requirement for consumers who are the licensee's customers on the compliance date. By July 1, 2001, a licensee shall provide an initial notice, as required by WAC 284-04-200, to consumers who are the licensee's customers on July 1, 2001.

(b) Example. A licensee provides an initial notice to consumers who are its customers on July 1, 2001, if, by that date, the licensee has established a system for providing an initial notice to all new customers and has mailed the initial notice to all the licensee's existing customers.

(3) Two-year grandfathering of service agreements. Until July 1, 2002, a contract that a licensee has entered into with a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf satisfies the provisions of WAC 284-04-400 (1)(a)(ii), even if the contract does not include a requirement that the third party maintain the confidentiality of nonpublic personal information, as long as the licensee entered into the agreement on or before January 9, 2001.

(4) With respect to nonpublic personal health information under WAC 284-04-510, these rules are effective December 30, 2002.

**APPENDIX A****NEW SECTION**

**WAC 284-04-900 Sample clauses.** Licensees, including a group of financial holding company affiliates that use a common privacy notice, may use the following sample clauses, if the clause is accurate for each institution that uses the notice. (Note that disclosure of certain information, such as assets, income and information from a consumer reporting agency, may give rise to obligations under the Federal Fair Credit Reporting Act, such as a requirement to permit a consumer to opt out of disclosures to affiliates or designation as a consumer reporting agency if disclosures are made to non-affiliated third parties.)

**A-1—Categories of information a licensee collects (all institutions)**

A licensee may use this clause, as applicable, to meet the requirement of WAC 284-04-210 (1)(a) to describe the categories of nonpublic personal information the licensee collects.

**Sample Clause A-1:**

We collect nonpublic personal information about you from the following sources:

- Information we receive from you on applications or other forms;
- Information about your transactions with us, our affiliates or others; and
- Information we receive from a consumer reporting agency.

**A-2—Categories of information a licensee discloses (institutions that disclose outside of the exceptions)**

A licensee may use one of these clauses, as applicable, to meet the requirement of WAC 284-04-210 (1)(b) to describe the categories of nonpublic personal information the licensee discloses. The licensee may use these clauses if it discloses nonpublic personal information other than as permitted by the exceptions in WAC 284-04-400, 284-04-405, and 284-04-410.

**Sample Clause A-2, Alternative 1:**

We may disclose the following kinds of nonpublic personal information about you:

- Information we receive from you on applications or other forms, such as (provide illustrative examples, such as "your name, address, Social Security number, assets, income, and beneficiaries");
- Information about your transactions with us, our affiliates or others, such as (provide illustrative examples, such as "your policy coverage, premiums, and payment history"); and
- Information we receive from a consumer reporting agency, such as (provide illustrative examples, such as "your creditworthiness and credit history").

**Sample Clause A-2, Alternative 2:**

We may disclose all of the information that we collect, as described (describe location in the notice, such as "above" or "below").

**A-3—Categories of information a licensee discloses and parties to whom the licensee discloses (institutions that do not disclose outside of the exceptions)**

A licensee may use this clause, as applicable, to meet the requirements of WAC 284-04-210 (1)(b), (c), and (d) to describe the categories of nonpublic personal information about customers and former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses. A licensee may use this clause if the licensee does not disclose nonpublic personal information to any party, other than as permitted by the exceptions in WAC 284-04-405 and 284-04-410.

**Sample Clause A-3:**

We do not disclose any nonpublic personal information about our customers or former customers to anyone, except as permitted by law.

**A-4—Categories of parties to whom a licensee discloses (institutions that disclose outside of the exceptions)**

A licensee may use this clause, as applicable, to meet the requirement of WAC 284-04-210 (1)(c) to describe the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal information. This clause may be used if the licensee discloses nonpublic personal information other than as permitted by the exceptions

in WAC 284-04-400, 284-04-405, and 284-04-410, as well as when permitted by the exceptions in WAC 284-04-405 and 284-04-410.

**Sample Clause A-4:**

We may disclose nonpublic personal information about you to the following types of third parties:

- Financial service providers, such as (provide illustrative examples, such as "life insurers, automobile insurers, mortgage bankers, securities broker-dealers, and insurance agents");
- Nonfinancial companies, such as (provide illustrative examples, such as "retailers, direct marketers, airlines, and publishers"); and
- Others, such as (provide illustrative examples, such as "nonprofit organizations").

We may also disclose nonpublic personal information about you to nonaffiliated third parties as permitted by law.

**A-5—Service provider/joint marketing exception**

A licensee may use one of these clauses, as applicable, to meet the requirements of WAC 284-04-210 (1)(e) related to the exception for service providers and joint marketers in WAC 284-04-400. If a licensee discloses nonpublic personal information under this exception, the licensee shall describe the categories of nonpublic personal information the licensee discloses and the categories of third parties with whom the licensee has contracted.

**Sample Clause A-5, Alternative 1:**

We may disclose the following information to companies that perform marketing services on our behalf or to other financial institutions with whom we have joint marketing agreements:

- Information we receive from you on applications or other forms, such as (provide illustrative examples, such as "your name, address, Social Security number, assets, income, and beneficiaries");
- Information about your transactions with us, our affiliates or others, such as (provide illustrative examples, such as "your policy coverage, premium, and payment history"); and
- Information we receive from a consumer reporting agency, such as (provide illustrative examples, such as "your creditworthiness and credit history").

**Sample Clause A-5, Alternative 2:**

We may disclose all of the information we collect, as described (describe location in the notice, such as "above" or "below") to companies that perform marketing services on our behalf or to other financial institutions with whom we have joint marketing agreements.

**A-6—Explanation of opt out right (institutions that disclose outside of the exceptions)**

A licensee may use this clause, as applicable, to meet the requirement of WAC 284-04-210 (1)(f) to provide an explanation of the consumer's right to opt out of the disclosure of nonpublic personal information to nonaffiliated third parties, including the method(s) by which the consumer may exercise that right. The licensee may use this clause if the licensee discloses nonpublic personal information other than as permitted by the exceptions in WAC 284-04-400, 284-04-405, and 284-04-410.

**Sample Clause A-6:**

If you prefer that we not disclose nonpublic personal information about you to nonaffiliated third parties, you may opt out of those disclosures, that is, you may direct us not to make those disclosures (other than disclosures permitted by law). If you wish to opt out of disclosures to nonaffiliated third parties, you may (describe a reasonable means of opting out, such as "call the following toll-free number: (insert number)).

**A-7—Confidentiality and security (all institutions)**

A licensee may use this clause, as applicable, to meet the requirement of WAC 284-04-210 (1)(h) to describe its policies and practices with respect to protecting the confidentiality and security of nonpublic personal information.

**Sample Clause A-7:**

We restrict access to nonpublic personal information about you to (provide an appropriate description, such as "those employees who need to know that information to provide products or services to you"). We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

**WSR 01-03-035**

**PERMANENT RULES**

**OFFICE OF THE**

**INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2000-03—Filed January 9, 2001, 11:25 a.m.]

Date of Adoption: January 9, 2001.

Purpose: E2SSB 6067 provisions relating to maternity, prescription drugs, and restrictions on carrier limitations for maternity coverage coupled with federal and state laws that mandate maternity and contraceptive coverage and that prohibit sex discrimination necessitate rules setting common benefit standards for maternity and prescription drug coverage. The rules are intended to prohibit unreasonable restrictions on health plan coverage as carriers design and offer coverage in compliance with E2SSB 6067, chapter 79, Laws of 2000.

Statutory Authority for Adoption: E2SSB 6067 and RCW 48.43.041, 48.44.020, and 48.46.060.

Adopted under notice filed as WSR 00-23-127 on November 22, 2000.

Changes Other than Editing from Proposed to Adopted Version: WAC 284-43-821 and 284-43-823, health plans that provide maternity services must cover the full range of related services including pregnancy prevention, termination, and sterilization. Plans cannot contain limitations or restrictions that are not applied to other health services. For example, carriers could not avoid the nine month preexisting condition exclusion by imposing a twelve month "benefit" waiting period. Health plans that cover prescription drugs must also cover prescription contraceptives. The general prohibition on discrimination is removed. Carriers may require cost sharing on prescription contraceptives to the same extent



applied to other covered prescriptions. WAC 284-43-824, the rule applies to plans offered, issued, or renewed on or after July 1, 2001.

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 2, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 9, 2001

Deborah Senn

Insurance Commissioner

**NEW SECTION**

**WAC 284-43-821 Maternity and pregnancy-related exclusions, limitations and conditions in individual plans.**

(1) Health carriers offering or issuing an individual health plan providing coverage for maternity services shall not exclude medically necessary consultations, examinations, radiology, laboratory, anesthesia, hospitalization and medical care for pregnancy-related services including pregnancy diagnosis; pregnancy prevention; sterilization; therapeutic and voluntary termination of pregnancy; miscarriage; prenatal, delivery and postpartum care; complications of pregnancy; breast feeding; and prenatal testing when medically necessary for the detection of congenital and heritable disorders.

(2) A carrier may not impose benefit waiting periods, limitations, or restrictions on maternity services that are not required for other covered services. A carrier may require cost sharing, such as copayments or deductibles, to the extent that such requirements are imposed for other covered services.

(3) No health carrier offering or issuing prescription drug benefits in the individual market may exclude FDA-approved prescription contraceptive drugs and devices. Health carriers are not prohibited from excluding nonprescription drugs and devices, or using closed formularies, provided, however, such formularies shall include oral, implant and injectable contraceptive drugs, intrauterine devices and prescription barrier methods.

(4) A carrier may require cost sharing, such as copayments or deductibles, to the extent that such requirements are imposed for other covered prescriptions.

**NEW SECTION**

**WAC 284-43-823 Maternity and pregnancy-related exclusions, limitations and conditions in group plans.**

(1) Health carriers offering or issuing a group health plan providing coverage for maternity services shall not exclude medically necessary consultations, examinations, radiology, laboratory, anesthesia, hospitalization and medical care for pregnancy-related services including pregnancy diagnosis; pregnancy prevention; sterilization; therapeutic and voluntary termination of pregnancy; miscarriage; prenatal, delivery and postpartum care; complications of pregnancy; breast feeding; and prenatal testing when medically necessary for the detection of congenital and heritable disorders.

(2) A carrier may not impose benefit waiting periods, limitations, or restrictions on maternity services that are not required for other covered services. A carrier may require cost sharing, such as copayments or deductibles, to the extent that such requirements are imposed for other covered services.

(3) No health carrier offering or issuing prescription drug benefits in the group market may exclude FDA-approved prescription contraceptive drugs and devices. Health carriers are not prohibited from excluding nonprescription drugs and devices, or using closed formularies, provided, however, such formularies shall include oral, implant and injectable contraceptive drugs, intrauterine devices and prescription barrier methods.

(4) A carrier may require cost sharing, such as copayments or deductibles, to the extent that such requirements are imposed for other covered prescriptions.

**NEW SECTION**

**WAC 284-43-824 Effective date.** WAC 284-43-821 and 283-43-823 are effective for plans offered, issued, or renewed on or after July 1, 2001.

**WSR 01-03-042  
PERMANENT RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Economic Services Administration)**

[Filed January 9, 2001, 4:51 p.m.]

Date of Adoption: January 9, 2001.

Purpose: Comply with legislative intent to provide individual development accounts for TANF, SFA, and low income families under 175% of federal poverty level to help them to become financially self sufficient, WAC 388-310-2000 Individual development accounts.

Statutory Authority for Adoption: RCW 74.04.050, 74.08.090, 74.08A.220.

Adopted under notice filed as WSR 00-23-121 on November 22, 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

PERMANENT

Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 9, 2001

Charles Hunter, Director  
Administrative Services Division

## NEW SECTION

**WAC 388-310-2000 Individual development accounts (IDA).** (1) **What are individual development accounts?**

Individual development accounts (IDAs) are special savings accounts for people eligible for or receiving TANF or SFA. The IDA's will help families save money for qualified purchases that will help them become financially self-sufficient. Your IDA account may only be used for the following qualified purchase: Acquisition cost for a first home, post-secondary education expenses, or business expenses for self-employment. You may only deposit income that you have earned through work into an IDA, the state matches those funds, helping you reach your goal more quickly.

**(2) Who helps you set up an IDA?**

The state office of trade and economic development (OTED) administers the IDA program. OTED contracts with local nonprofit agencies to enroll participants in the IDA program, monitor account activity and provide training and other support services while you are enrolled.

**(3) Who can enroll in the IDA program?**

To enroll in the IDA program, you must receive (or be eligible to receive) TANF or SFA assistance, or post TANF families with income below one hundred seventy-five percent of the federal poverty level. You may remain enrolled in the program for three years from the date of opening your IDA account.

**(4) What happens once you enroll in the IDA program?**

Once you've enrolled, your IDA contractor will help you develop an individual savings plan that identifies the steps you must take to earn the match. To earn the match you must:

(a) Attend financial skills classes to learn how to manage your personal finances.

(b) Open your savings account at a financial institution that is participating in the IDA program through an agreement with the IDA contractor.

(c) Deposit savings from earned income into your account on at least a quarterly basis.

**(5) How are your IDA matching funds handled?**

Your matching funds are held in a separate account until you are ready to make a qualified purchase. The IDA contractor provides you with monthly statements showing the amount of matching funds you have earned.

**(6) How much money can you save with an IDA?**

The state will give you up to two dollars for every dollar you save, up to a maximum match of four thousand dollars. So, if you save two thousand dollars (the maximum amount allowed), you could earn four thousand dollars in match, for a total of six thousand dollars.

**(7) When can you withdraw money from your account?**

When you have an IDA, you really have two types of accounts: your own savings account and a trust account holding your match funds.

(a) You can withdraw your own savings at any time - it's your money; but you will forfeit any match that was earned on those funds and could jeopardize your ability to stay in the program. You also need to report any withdrawals to your DSHS case manager if you are receiving any type of public assistance benefits.

(b) You cannot withdraw your match until you are ready to purchase your asset and have met all of the requirements in your individual savings plan. At that time, the IDA contractor will withdraw the matching funds and pay them directly to the person or organization that you are purchasing your asset from (such as the mortgage company, college, or bank).

**(8) Will having an IDA affect your eligibility for other public assistance programs?**

The funds held in your IDA cannot be taken into consideration when determining if you qualify for TANF, Social Security, Food Stamps, or Medicaid. However, if you withdraw savings from your IDA other than to purchase your asset, or if you leave the IDA program early, your eligibility could be affected. See WAC 388-470-0065 for more details about how IDAs affect your eligibility for other types of public assistance benefits.

**WSR 01-03-049**

**PERMANENT RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed January 10, 2001, 4:47 p.m.]

Date of Adoption: January 10, 2001.

Purpose: To adopt into rule the effective date for the red raspberry grades and standards in chapter 16-143 WAC by exempting from the rules all red raspberries harvested prior to June 1, 2001.

Citation of Existing Rules Affected by this Order: Chapter 16-143 WAC.

Statutory Authority for Adoption: Chapters 15.17 and 69.04 RCW.

Adopted under notice filed as WSR 00-24-117 on December 6, 2000.

Changes Other than Editing from Proposed to Adopted Version: There are no changes to the proposed version.

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 10, 2001

Jim Jesernig  
Director

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 12, 2001

Alan E. Rathbun  
Assistant Director

**WSR 01-03-066**

**PERMANENT RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Division of Assistance Programs)

[Filed January 12, 2001, 2:37 p.m., effective March 1, 2001]

Date of Adoption: January 12, 2001.

Purpose: WAC 388-432-0005, a section on diversion cash assistance was not included in the Eligibility A-Z manual. The purpose of this rule is to migrate the rules for diversion cash assistance to a single WAC chapter that will be included in the Eligibility A-Z manual. Although there are no policy changes for this rule, it is rewritten with the intention to be clearer for clients.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-222-020 Diversion cash assistance payments, 388-222-010 Diversion cash assistance (DCA), and 388-222-001 Definitions.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050.

Adopted under notice filed as WSR 00-23-086 on November 20, 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 0, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, 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 0, Amended 0, Repealed 3.

Effective Date of Rule: March 1, 2001.

January 12, 2001

Charles Hunter, Director  
Administrative Services Division

**NEW SECTION**

**WAC 16-143-005 Chapter not effective for 2000 red raspberry harvest season.** The rules set forth in WAC 16-143-010 through WAC 16-143-110 do not apply to any red raspberries harvested before June 2001.

**WSR 01-03-065**

**PERMANENT RULES**

**DEPARTMENT OF LICENSING**

[Filed January 12, 2001, 9:38 a.m.]

Date of Adoption: January 12, 2001.

Purpose: Repeal the following WAC because the licensing program was deregulated effective July 1, 1999: WAC 308-32-100 Application for brief adjudicative proceedings, 308-32-110 Preliminary record in brief adjudicative proceedings, and 308-32-120 Conduct of brief adjudicative proceedings.

Citation of Existing Rules Affected by this Order: Repealing WAC 308-32-100, 308-32-110, and 308-32-120.

Adopted under preproposal statement of inquiry filed as WSR 00-23-006 on November 2, 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 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 Mak-

PERMANENT

**Chapter 388-432 WAC  
Diversion Assistance**

**NEW SECTION**

**WAC 388-432-0005 Can I get help from DSHS for a family emergency without receiving monthly cash assistance?** DSHS has a program called diversion cash assistance (DCA). If your family needs an emergency cash payment but does not need ongoing monthly cash assistance, you may be eligible for this program.

(1) To get DCA, you must:

(a) Meet all the eligibility rules for temporary assistance for needy families (TANF)/state family assistance (SFA) except:

(i) You do not have to participate in WorkFirst requirements as defined in chapter 388-310 WAC; and

(ii) You do not have to assign child support rights or cooperate with division of child support as defined in chapter 388-422 WAC.

(b) Have a current bona fide or approved need for living expenses;

(c) Provide proof that your need exists; and

(d) Have or expect to get enough income or resources to support yourselves for at least twelve months.

(2) You may get DCA to help pay for one or more of the following needs:

(a) Child care;

(b) Housing;

(c) Transportation;

(d) Expenses to get or keep a job;

(e) Food costs, but not if an adult member of your family has been disqualified for food stamps; or

(f) Medical costs, except when an adult member of your family is not eligible because of failure to provide third party liability (TPL) information as defined in WAC 388-505-0540.

(3) DCA payments are limited to:

(a) One thousand five hundred dollars once in a twelve-month period which starts with the month the DCA benefits begin; and

(b) The cost of your need.

(4) We do not budget your income or make you use your resources to lower the amount of DCA payments you can receive.

(5) DCA payments can be paid:

(a) All at once; or

(b) As separate payments over a thirty-day period. The thirty-day period starts with the date of your first DCA payment.

(6) When it is possible, we pay your DCA benefit directly to the service provider.

(7) You are not eligible for DCA if:

(a) Any adult member of your assistance unit got DCA within the last twelve months;

(b) Any adult member of your assistance unit gets TANF/SFA;

(c) Any adult member of your assistance unit is not eligible for cash assistance for any reason unless one parent in a two-parent-assistance unit is receiving SSI; or

(d) Your assistance unit does not have a needy adult (such as when you do not receive TANF/SFA payment for yourself but receive it for the children only).

(8) If you apply for DCA after your TANF/SFA grant has been terminated, we consider you an applicant for DCA.

(9) If you apply for TANF/SFA and you received DCA less than twelve months ago:

(a) We set up a DCA loan.

(i) The amount of the loan is one-twelfth of the total DCA benefit times the number of months that are left in the twelve-month period.

(ii) The first month begins with the month DCA benefits began.

(b) We collect the loan only by reducing your grant. We take five percent of your TANF/SFA grant each month.

(10) If you stop getting TANF/SFA before you have repaid the loan, we stop collecting the loan unless you get back on TANF/SFA.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 388-222-001 Definitions.

WAC 388-222-010 Diversion cash assistance (DCA).

WAC 388-222-020 Diversion cash assistance payments.

**WSR 01-03-076**

**PERMANENT RULES**

**PUGET SOUND**

**CLEAN AIR AGENCY**

[Filed January 16, 2001, 9:27 a.m.]

Date of Adoption: January 11, 2001.

Purpose: To readopt our fee schedules (which the board adopted in September 1999) as required by the passage of Initiative 722.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 00-24-074 on December 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 0, Amended 0, Repealed 0.

PERMANENT

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 11, 2001

James Nolan

Director - Compliance

**READOPTED SECTION**

**REGULATION I SECTION 5.07 REGISTRATION FEES**

(a) The Agency shall levy annual fees as set forth in Section 5.07(c) below for services provided in administering the registration program. Fees received under the registration program shall not exceed the cost of administering the program. Registration fees do not apply to sources subject to Article 7 of Regulation I.

(b) Upon assessment by the Agency, registration fees are due and payable within 30 days. They shall be deemed delinquent if not fully paid within 90 days.

(c) Annual registration fees are assessed either by the emission reporting thresholds or, if below emission thresholds, by the primary Standard Industrial Classification (SIC) of the source:

(1) Emission reporting sources under Section 5.05(d) that equal or exceed any of the emission thresholds in this paragraph shall be charged an annual registration fee of \$1,000 plus an additional emission rate fee of:

\$15 for each ton of CO when the CO emissions are equal to or exceed 100 tons in the previous calendar year, and

\$35 for each ton of NOx when the NOx emissions are equal to or exceed 25 tons in the previous calendar year, and

\$35 for each ton of PM<sub>10</sub> when the PM<sub>10</sub> emissions are equal to or exceed 25 tons in the previous calendar year, and

\$35 for each ton of SOx when the SOx emissions are equal to or exceed 25 tons in the previous calendar year, and

\$35 for each ton of VOC when the VOC emissions are equal to or exceed 25 tons in the previous calendar year, and

\$35 for each ton of HAP when the facility total HAP emissions are equal to or exceed 6 tons in the previous calendar year or when any single individual HAP emissions are equal to or exceed 2 tons in the previous calendar year.

(2) Emission reporting sources under Section 5.05(d) that equal or exceed any of the emission thresholds in this paragraph shall be charged the annual registration fee of \$2,000 plus an additional emission rate fee of:

\$15 for each ton of CO when the CO emissions are equal to or exceed 200 tons in the previous calendar year, and

\$35 for each ton of NOx when the NOx emissions are equal to or exceed 50 tons in the previous calendar year, and

\$35 for each ton of PM<sub>10</sub> when the PM<sub>10</sub> emissions are equal to or exceed 50 tons in the previous calendar year, and

\$35 for each ton of SOx when the SOx emissions are equal to or exceed 50 tons in the previous calendar year, and

\$35 for each ton of VOC when the VOC emissions are equal to or exceed 50 tons in the previous calendar year, and  
 \$35 for each ton of HAP when the facility total HAP emissions are equal to or exceed 12 tons in the previous calendar year or when any single individual HAP emissions are equal to or exceed 4 tons in the previous calendar year.

(3) Automobile body repair and painting (SIC = 7532, NAICS = 811121)

without EnviroStar rating of 4 or 5 stars . . . . . \$250  
 with EnviroStar rating of 4 or 5 stars . . . . . \$50

(4) Dry-cleaning plants, except rug cleaning (SIC = 7216, NAICS = 812322)

without refrigerated condenser . . . . . \$500  
 with refrigerated condenser . . . . . \$150

(5) Gasoline service stations with gasoline annual throughput during the last calendar year (as certified at the time of annual fee payment) of:

(i) more than 1,200,000 gallons . . . . . \$400

(ii) 840,001 to 1,200,000 gallons in Kitsap County \$250

(iii) 600,001 to 1,200,000 gallons in King, Pierce, or Snohomish County . . . . . \$250

(iv) 600,001 to 840,000 gallons in Kitsap County . \$150

(v) 200,000 to 600,000 gallons . . . . . \$150

(vi) less than 200,000 gallons . . . . . \$100

(6) Sources having 10 or more full-time employees at the facility site (as certified at the time of annual fee payment) and requiring registration under Section 5.03 in the following North American Industry Classification System (NAICS) codes (*North American Industry Classification System Manual*, U.S. Executive Office of the President, Office of Management and Budget, 1997) or Standard Industrial Classification (SIC) codes (*Standard Industrial Classification Manual*, Executive Office of the President, Office of Management and Budget, 1987) shall be charged an annual registration fee of \$1,000:

NAICS	SIC	NAICS Description
212312	1422	Crushed and Broken Limestone Mining and Quarrying
212319	1429	Other Crushed and Broken Stone Mining and Quarrying
212321	1442	Construction Sand and Gravel Mining
212322	1446	Industrial Sand Mining
221122	4911	Electric Power Distribution
22132	4952	Sewage Treatment Facilities
23411	1611	Highway and Street Construction
311421	2035	Fruit and Vegetable Canning
311613	2077	Rendering and Meat Byproduct Processing
311999	2099	All Other Miscellaneous Food Manufacturing
321114	2491	Wood Preservation
324121	2951	Asphalt Paving Mixture and Block Manufacturing
324122	2952	Asphalt Shingle and Coating Materials Manufacturing

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325311	2873	Nitrogenous Fertilizer Manufacturing	335312	7694	Motor and Generator Manufacturing
325314	2875	Fertilizer (Mixing Only) Manufacturing	336611	3731	Ship Building and Repairing
325412	2834	Pharmaceutical Preparation Manufacturing	42251	5153	Grain and Field Bean Wholesalers
325612	2842	Polish and Other Sanitation Good Manufacturing	42269	5169	Other Chemical and Allied Products Wholesalers
32591	2893	Printing Ink Manufacturing	48691	4613	Pipeline Transportation of Refined Petroleum Products
326291	3061	Rubber Product Manufacturing for Mechanical Use	48821	4013	Support Activities for Rail Transportation
327211	3211	Flat Glass Manufacturing	562111	4953	Solid Waste Collection
32731	3241	Cement Manufacturing	62221	8063	Psychiatric and Substance Abuse Hospitals
32732	3273	Ready-Mix Concrete Manufacturing	62231	8069	Specialty (except Psychiatric and Substance Abuse) Hospitals
32739	3272	Other Concrete Product Manufacturing	81391	8611	Business Associations
32742	3275	Gypsum Product Manufacturing	(7) Other sources having 10 or more full-time employees at the facility site (as certified at the time of annual fee payment) and requiring registration under Section 5.03 in the following North American Industry Classification System (NAICS) codes or Standard Industrial Classification (SIC) codes shall be charged an annual registration fee of \$500:		
32791	3291	Abrasive Product Manufacturing			
327992	3295	Ground or Treated Mineral and Earth Manufacturing			
327999	3292, 3299	All Other Miscellaneous Nonmetallic Mineral Product Manufacturing			
331111	3312	Iron and Steel Mills	NAICS	SIC	NAICS Description
331222	3315	Steel Wire Drawing	115112	0711	Soil Preparation, Planting, and Cultivating
331312	3334	Primary Aluminum Production	212325	1459	Clay and Ceramic and Refractory Minerals Mining
331492	3341	Secondary Smelting, Refining, and Alloying of Nonferrous Metal (except Copper and Aluminum)	22132	4952	Sewage Treatment Facilities
331511	3321	Iron Foundries	22133	4961	Steam and Air-Conditioning Supply
331512	3324	Steel Investment Foundries	23321	1521	Single-Family Housing Construction
331513	3325	Steel Foundries (except Investment)	23499	1629	All Other Heavy Construction
331524	3365	Aluminum Foundries (except Die-Casting)	23531	1731	Electrical Contractors
331525	3366	Copper Foundries (except Die-Casting)	311111	2047	Dog and Cat Food Manufacturing
331528	3369	Other Nonferrous Foundries (except Die-Casting)	311119	2048	Other Animal Food Manufacturing
332811	3398	Metal Heat Treating	311211	2041	Flour Milling
332812	3479	Metal Coating, Engraving (except Jewelry and Silverware), and Allied Services to Manufacturers	311422	2032	Specialty Canning
332813	3471	Electroplating, Plating, Polishing, Anodizing, and Coloring	311612	2013	Meat Processed from Carcasses
333414	3433	Heating Equipment (except Warm Air Furnaces) Manufacturing	311711	2091	Seafood Canning
333999	3599	All Other Miscellaneous General Purpose Machinery Manufacturing	311821	2052	Cookie and Cracker Manufacturing
334413	3674	Semiconductor and Related Device Manufacturing	311822	2045	Flour Mixes and Dough Manufacturing from Purchased Flour
334418	3679	Printed Circuit Assembly (Electronic Assembly) Manufacturing	311823	2098	Dry Pasta Manufacturing
			311919	2096	Other Snack Food Manufacturing
			31192	2095	Coffee and Tea Manufacturing
			312111	2086	Soft Drink Manufacturing
			31212	2082	Breweries
			321113	2421, 2429	Sawmills
			321213	2439	Engineered Wood Member (except Truss) Manufacturing

PERMANENT

321219	2493	Reconstituted Wood Product Manufacturing	333294	3556	Food Product Machinery Manufacturing
32191	2431	Millwork	333515	3545	Cutting Tool and Machine Tool Accessory Manufacturing
321912	2426	Cut Stock, Resawing Lumber, and Planing	333994	3567	Industrial Process Furnace and Oven Manufacturing
32192	2441, 2448	Wood Container and Pallet Manufacturing	334111	3571	Electronic Computer Manufacturing
321992	2452	Prefabricated Wood Building Manufacturing	33422	3663	Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing
32213	2631	Paperboard Mills	334412	3672	Bare Printed Circuit Board Manufacturing
322211	2653	Corrugated and Solid Fiber Box Manufacturing	334513	3823	Instruments and Related Products Manufacturing for Measuring, Displaying, and Controlling Industrial Process Variables
322212	2657	Folding Paperboard Box Manufacturing	334518	3873	Watch, Clock, and Part Manufacturing
322213	2652	Setup Paperboard Box Manufacturing	335129	3648	Other Lighting Equipment Manufacturing
322231	2675	Die-Cut Paper and Paperboard Office Supplies Manufacturing	335228	3639	Other Major Household Appliance Manufacturing
32311	2759	Printing	335911	3691	Storage Battery Manufacturing
323110	2752	Commercial Lithographic Printing	335999	3629	All Other Miscellaneous Electrical Equipment and Component Manufacturing
325188	2819	All Other Basic Inorganic Chemical Manufacturing	336211	3713	Motor Vehicle Body Manufacturing
325199	2869	All Other Basic Organic Chemical Manufacturing	336411	3721	Aircraft Manufacturing
325211	2821	Plastics Material and Resin Manufacturing	336413	3728	Other Aircraft Parts and Auxiliary Equipment Manufacturing
32551	2851	Paint and Coating Manufacturing	33651	3743	Railroad Rolling Stock Manufacturing
326112	2671	Unsupported Plastics Packaging Film and Sheet Manufacturing	33711	2434	Wood Kitchen Cabinet and Countertop Manufacturing
326199	3089	All Other Plastics Product Manufacturing	337122	5712	Nonupholstered Wood Household Furniture Manufacturing
326212	7534	Tire Retreading	42132	5032	Brick, Stone, and Related Construction Material Wholesalers
327331	3271	Concrete Block and Brick Manufacturing	42151	5051	Metal Service Centers and Offices
332112	3463	Nonferrous Forging	42169	5065	Other Electronic Parts and Equipment Wholesalers
332116	3469	Metal Stampings	42193	5093	Recyclable Material Wholesalers
332312	3441, 3449	Fabricated Structural Metal Manufacturing	42261	5162	Plastics Materials and Basic Forms and Shapes Wholesalers
332322	3444	Sheet Metal Work Manufacturing	42271	5171	Petroleum Bulk Stations and Terminals
332323	3446	Ornamental and Architectural Metal Work Manufacturing	422720	5172	Petroleum and Petroleum Products Wholesalers (except Bulk Stations and Terminals)
33242	3443	Metal Tank (Heavy Gauge) Manufacturing	42299	5199	Other Miscellaneous Nondurable Goods Wholesalers
332618	3496	Other Fabricated Wire Product Manufacturing	44419	5039	Other Building Material Dealers
332993	3483	Ammunition (except Small Arms) Manufacturing			
332996	3498	Fabricated Pipe and Pipe Fitting Manufacturing			
332999	3499	All Other Miscellaneous Fabricated Metal Product Manufacturing			

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454312	5984	Liquefied Petroleum Gas (Bottled Gas) Dealers
481111	4512	Scheduled Passenger Air Transportation
48411	4212	General Freight Trucking, Local
48819	4581	Other Support Activities for Air Transportation
48832	4491	Marine Cargo Handling
48833	4492	Navigational Services to Shipping
48849	4173	Other Support Activities for Road Transportation
49312	4222	Refrigerated Warehousing and Storage
51111	2711	Newspaper Publishers
51112	2721	Periodical Publishers
51113	2731	Book Publishers
51421	7374	Data Processing Services
53111	6513	Lessors of Residential Buildings and Dwellings
54171	8731	Research and Development in the Physical, Engineering, and Life Sciences
56121	8744	Facilities Support Services
61131	8221	Colleges, Universities, and Professional Schools
62211	8062	General Medical and Surgical Hospitals
62431	8331	Vocational Rehabilitation Services
712190	8422	Nature Parks and Other Similar Institutions
81221	7261	Funeral Homes and Funeral Services
81222	7261	Cemeteries and Crematories
812331	7219	Linen Supply
812332	7218	Industrial Launderers
922120	9221	Police Protection
92214	9223	Correctional Institutions
92811	9711	National Security

(i) Operating permit sources with the following North American Industry Classification (NAICS) codes (*North American Industry Classification System Manual*, U.S. Executive Office of the President, Office of Management and Budget, 1997) or Standard Industrial Classification (SIC) codes:

NAICS	SIC	NAICS Description
32411	2911	Petroleum Refineries
32731	3241	Cement Manufacturing
331111	3312	Iron and Steel Mills
336411	3721	Aircraft Manufacturing
336413	3728	Other Aircraft Parts and Auxiliary Equipment Manufacturing
92811	9711	National Security

.....\$21,000

(ii) Operating permit sources with the following NAICS/SIC codes:

NAICS	SIC	NAICS Description
23521	1721	Painting and Wall Covering Contractors
311812	2051	Commercial Bakeries
321114	2491	Wood Preservation
32191	2431	Millwork
321999	2499	All Other Miscellaneous Wood Product Manufacturing
322222	2672	Coated and Laminated Paper Manufacturing
32614	3086	Polystyrene Foam Product Manufacturing
32615	3086	Urethane and Other Foam Product (except Polystyrene) Manufacturing
327121	3251	Brick and Structural Clay Tile Manufacturing
332313	3443	Plate Work Manufacturing
332996	3498	Fabricated Pipe and Pipe Fitting Manufacturing
333415	3585	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing
33711	2434	Wood Kitchen Cabinet and Countertop Manufacturing
81142	7641	Reupholstery and Furniture Repair

.....\$3,500

(iii) Operating permit sources with NAICS/SIC codes other than listed above .....\$7,000

(8) All other sources, not listed above in Sections (1) through (7), requiring registration under Section 5.03, shall be charged an annual registration fee of \$250.

**READOPTED SECTION**

**REGULATION I SECTION 7.07 OPERATING PERMIT FEES**

(a) The Agency shall levy annual operating permit fees as set forth in Section 7.07(b) below to cover the cost of administering the operating permit program.

(b) Upon assessment by the Agency, the following operating permit fees are due and payable within 30 days. They shall be deemed delinquent if not fully paid within 90 days.

(1) Facility Fees:

(2) Additional emission rate fees shall be paid in addition to the annual operating permit fees of Section 7.07 (b)(1):

\$15 for each ton of CO when the CO emissions are equal to or exceed 100 tons in the previous calendar year, and



\$35 for each ton of NO<sub>x</sub> when the NO<sub>x</sub> emissions are equal to or exceed 25 tons in the previous calendar year, and \$35 for each ton of PM<sub>10</sub> when the PM<sub>10</sub> emissions are equal to or exceed 25 tons in the previous calendar year, and \$35 for each ton of SO<sub>x</sub> when the SO<sub>x</sub> emissions are equal to or exceed 25 tons in the previous calendar year, and \$35 for each ton of VOC when the VOC emissions are equal to or exceed 25 tons in the previous calendar year, and \$35 for each ton of HAP when the facility total HAP emissions are equal to or exceed 6 tons in the previous calendar year or when any single individual HAP emissions are equal to or exceed 2 tons in the previous calendar year.

(c) In addition to the fees under Sections 7.07 (b)(1) and (b)(2) above, the Agency shall, on a source-by-source basis, levy the following fees:

(1) for the issuance, reissuance, or renewal of an operating permit, a fee equal to 20% of the annual operating permit fee, not to exceed \$5,000.00, and

(2) to cover the cost of public involvement under WAC 173-401-800, and

(3) to cover the cost incurred by the Washington State Department of Health in enforcing 40 CFR Part 61, Subpart I and Chapter 246-247 WAC.

(d) In addition to the fees described under Sections 7.07 (b) and (c) above, the Agency shall collect and transfer to the Washington State Department of Ecology a surcharge established by the Department of Ecology under WAC 173-401 to cover the Department of Ecology's program development and oversight costs.

(e) Continued payment to the Agency of the annual operating permit fee maintains the operating permit and the status of the source as an operating facility.

### WSR 01-03-079

#### PERMANENT RULES

#### DEPARTMENT OF CORRECTIONS

[Filed January 16, 2001, 11:35 a.m.]

Date of Adoption: January 16, 2001.

Purpose: To update the WAC to reflect the current organizational structure of the Department of Corrections.

Citation of Existing Rules Affected by this Order: Amending WAC 137-04-010 and 137-04-020.

Statutory Authority for Adoption: RCW 42.17.250.

Adopted under notice filed as WSR 00-24-032 on November 29, 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 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 16, 2001

Joseph D. Lehman  
Secretary

#### AMENDATORY SECTION (Amending Order 82-3, filed 1/26/82)

**WAC 137-04-010 Definitions.** As used in this title:

(1) "Secretary" means the secretary of the department of corrections.

(2) "Department" means the department of corrections.

(3) "Inmate" or "offender" means any person committed to the custody or under the jurisdiction of the department(~~including but not limited to persons residing in a correctional institution or facility and persons released on furlough or work release.~~

(4) ~~The term "resident," as well as inmate, is used to designate a person on parole or probation status residing at a community residential facility).~~

#### AMENDATORY SECTION (Amending Order 82-3, filed 1/26/82)

**WAC 137-04-020 Structure of the department.** (1)

The executive head of the department is the secretary who is appointed by the governor with the consent of the senate, and serves at the pleasure of the governor. The secretary manages the department and is responsible for the administration of adult correctional programs, including but not limited to the operation of all state correctional institutions or facilities used for the confinement of convicted felons.

(2) The department is organized into (~~four divisions which are headed by directors~~) three offices: The office of the secretary; the office of correctional operations; and the office of administrative services. The office of correctional operations and the office of administrative services are headed by deputy secretaries who report to the secretary. The responsibilities of these (~~divisions~~) offices are:

(a) The office of the secretary is responsible for providing a variety of services for the department, including, government relations and constituent affairs, public information, planning and research, quality programs, workplace diversity, and victim witness and community protection.

(b) The (~~division of prisons~~) office of correctional operations is responsible for the supervision of adult felony offenders placed under the department's jurisdiction by the superior courts or the indeterminate sentencing review board and the operation of all (~~state~~) adult correctional facilities, including the Washington State Penitentiary; the Washington Corrections Center; the (~~Washington state reformatory; the McNeil Island penitentiary; the Purdy treatment center for women; the Cedar Creek corrections center; the Clearwater corrections center; the Firland correctional center; the Indian Ridge treatment center; the Larch corrections center; the~~

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~~Olympic correctional center; the Pine Lodge correctional center; the special offender center; and such other state correctional institutions, camps or facilities as may hereafter be established pursuant to law under the jurisdiction of the department for the confinement of convicted felons.~~

~~(b) The division of community services is responsible for community based services such as probation and parole and work/training release)) Monroe Correctional Complex; the McNeil Island Corrections Center; the Airway Heights Corrections Center; the Clallam Bay Corrections Center; the Stafford Creek Corrections Center; the Washington Corrections Center for Women; the Cedar Creek Corrections Center; the Coyote Ridge Corrections Center; the Larch Corrections Center; the Olympic Corrections Center; the Ahtanum View assisted living facility; the Pine Lodge prerelease facility; the Tacoma prerelease facility; and such other state correctional institutions, camps or facilities as may hereafter be established. The office of correctional operations is also responsible for the supervision of adult felony offenders within the community, including offenders in the work release program and other community residential programs. The office also administers correctional industries, all offender programs, and policy.~~

~~(c) The ((division of management and budget)) office of administrative services is responsible for providing a variety of services to the other ((divisions and)) offices of the department including ((budget and accounting, management information systems, research and analysis, management services, internal audit, and contracts and regulations.~~

~~(d) The division of institutional industries is responsible for providing a comprehensive work program for inmates, including free venture industries, tax reduction industries, institutional support industries, community work industries, and community service programs. All inmates working in prison industries are paid a wage and contribute to the cost of corrections. Inmates are assigned to these programs based on skills, aptitude, and experience.~~

~~(3) Also reporting to the secretary are the chiefs of personnel services, legal services, public information, special investigations, assistant secretary for program development, and legislative liaison and supervisor of internal audits)) financial and management services; information technology; capital planning and development; siting; rules, contracts, and public disclosure; human resources; and risk management and safety.~~

**WSR 01-03-084**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)

[Filed January 16, 2001, 3:27 p.m.]

Date of Adoption: January 16, 2001.

Purpose: The department has consolidated and clarified rules regarding ambulance transportation services in a new chapter. The proposed rules reflect long-standing department

policy, are more readable, and comply with the Governor's Executive Order 97-02 on regulatory reform.

New Transportation program—Ambulance services, WAC 388-546-0001, 388-546-0100, 388-546-0150, 388-546-0200, 388-546-0250, 388-546-0300, 388-546-0400, 388-546-0450, 388-546-0500, 388-546-0600, 388-546-0700, 388-546-0800, and 388-546-1000.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-86-086 and 388-87-036.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.500.

Other Authority: RCW 74.04.050, 74.04.055, and 74.04.057.

Adopted under notice filed as WSR 00-17-125 on August 18, 2000.

Changes Other than Editing from Proposed to Adopted Version: Changes to the proposed rule text for chapter 388-546 WAC are detailed below.

WAC 388-546-0200 Scope of coverage for ground and air ambulance.

(1) All ambulance transportation to and from medical services covered under the client's medical assistance program must be:

(a) Medically necessary based on the client's condition at the time of the ambulance trip;

(b) Appropriate to the client's actual medical need;

~~(c) To the closest available MAA contracted medical provider of MAA covered services; and~~

~~(d) Documented in the provider's client record as to medical necessity; and~~

(d) To one of the following destinations:

(i) The closest appropriate MAA contracted medical provider of MAA covered services; or

(ii) The designated trauma facility as identified in the Emergency Medical Services and Trauma regional patient care procedures manual.

(2) MAA limits coverage to that medically necessary ambulance transportation required because the client cannot be safely or legally transported any other way. If a client can safely travel by car, van, taxi, or other means, the ambulance trip is not medically necessary and the ambulance service is not covered by MAA. See WAC 388-546-0250 (1) and (2) for MAA's process for determining medical necessity.

(3) If Medicare or another third party is the client's primary health insurer and that primary party denies coverage of an ambulance trip due to a lack of medical necessity, MAA ~~relies on~~ requires the provider to report: (a) That third party determination on the billing to MAA; and (b) A justification for that the trip does not showing that the trip meets the medical necessity criteria of MAA.

WAC 388-546-0250 Ambulance services that MAA does not cover.

(1) MAA evaluates a request for any service that is listed as noncovered in this section under the provisions of WAC 388-501-0165.

(2) For ambulance services that are otherwise covered under this chapter but are subject to one or more limitations or other restrictions, MAA evaluates, on a case-by-case basis, requests to exceed the specified limits or restrictions. MAA

approves such requests when medically necessary, in accordance with WAC 388-501-0165.

(3) MAA does not cover ambulance services when the transportation is:

(a) Not medically necessary based on the client's condition at the time of service (see exception at WAC 388-546-1000);

(b) Refused by the client;

(c) For a client who is deceased at the time the ambulance arrives on-scene;

(d) For a client who dies after the ambulance arrives on-scene but prior to transport and the ambulance crew did not provide any significant medical services on-scene (see WAC 388-546-0500(2));

(e) Requested for the convenience of the client or the client's family;

(f) More expensive than arranging to bring the necessary medical service to the client's location;

(g) To transfer a client from a medical facility to the client's home (see exception at WAC 388-546-1000);

(h) Requested solely because a client has no other means of transportation;

(i) Provided by other than licensed ambulance providers (e.g., wheelchair vans, cabulance, stretcher cars); or

(j) Not to the nearest appropriate medical facility (e.g., the client's destination is an urgent care clinic or freestanding outpatient facility rather than a hospital emergency room) (see exception at WAC 388-546-1000).

~~(2)(4)~~ MAA does not cover ambulance services for hospital to hospital transportation...

WAC 388-546-0450 Ground ambulance levels of service and other reimbursement.

(7) The first thirty minutes of waiting time is included in MAA's base rate. MAA reimburses ground ambulance providers for additional waiting time if the time:

(a) Is extensive ~~as determined by MAA~~;

(b) Constitutes unusual circumstances ~~as determined by MAA~~; and

(c) Is documented in the provider's records and on the billing form. Documentation must include the reason for the wait, the ~~actual~~ total length of time spent waiting and the amount of waiting time being billed to MAA.

WAC 388-546-0500 Special circumstances and payment limits for ground ambulance services.

(2) MAA ~~may~~ reimburses a provider at the appropriate base-rate (no mileage an no separate supplies) if there is no transportation provided...

WAC 388-546-0700 Specific payment limitations for air ambulance services.

(5) If a client's transportation requires use of more than one ambulance to complete the trip to the hospital or other approved facility, MAA limits its reimbursement as follows:

(a) If more than one air ambulance...

(b) If both ~~an~~ air ambulance and a ground ambulances must be used, MAA reimburses one lift-off fee and total air miles to the air ambulance provider, and ~~one~~ the applicable base rate and ground mileage to ~~the~~ each ground ambulance provider involved in the trip. ~~except~~ The one exception to this rule is when the ground ambulance fee(s) is included in

the negotiated trip payment as provided in WAC 388-546-0800 (4)(b).

(7) MAA does not reimburse private organizations for volunteer medical air ambulance transportation services, unless the transportation services and fees are prior authorized by MAA. If authorized, MAA's reimbursement is based on the actual cost to provide the service or at MAA's established rates, whichever is lower. MAA does not reimburse separately for items or services that MAA ~~consider~~ includeds in the established rate(s).

WAC 388-546-0800 Payment for ground and air ambulance services outside the state of Washington.

(1) MAA requires any out-of-state ground or air ambulance provider who provides covered services to an MAA client to:

(a) Meet the licensing requirements of the ambulance provider's home state...; and

~~(b) Be participating in the Medicaid program of the ambulance provider's home state; and~~

~~(c) Sign an MAA core provider agreement.~~

(2) MAA does not reimburse for an interstate trip if the client is eligible for in-state services only.

(3) MAA reimburses out-of-state providers at the lower of:

(a) The provider's billed amount; or

(b) The rate established by MAA.

(4) MAA requires any out-of-state ground ambulance provider who is transporting MAA clients within the state of Washington to comply with RCW 18.73.180 regarding stretcher transportation.

~~(3)(5)~~ Air ambulance providers who provide emergency transportation that takes a client out-of-state or that brings a client in state from an out-of-state location must obtain MAA's prior authorization.

~~(4)(6)~~ MAA reimburses air ambulance providers the agreed upon rate for each medically necessary interstate air ambulance trip:...

~~(5) MAA does not reimburse for an interstate rip if the client is eligible for in-state services only.~~

~~(6) MAA reimburse out of state providers at the lower of:~~

~~(a) The provider's billed amount; or~~

~~(b) The rate established by MAA.~~

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 13, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 13, Amended 0, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 13, Amended 0, Repealed 2.

Effective Date of Rule: Thirty-one days after filing.

January 16, 2001

Charles Hunter, Director

Administrative Services Division

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 01-04 issue of the Register.

## WSR 01-03-085

### PERMANENT RULES

## LIQUOR CONTROL BOARD

[Filed January 17, 2001, 1:13 p.m.]

Date of Adoption: December 20, 2000.

**Purpose:** Chapter 314-17 WAC will replace chapter 314-14 WAC, which outlines how a person receives a mandatory alcohol server training permit, and how a person can become certified to provide alcohol server training.

**Citation of Existing Rules Affected by this Order:** Repealing chapter 314-14 WAC.

**Statutory Authority for Adoption:** RCW 66.08.030, 66.20.300, 66.20.310, 66.20.320, 66.20.330, 66.20.340, 66.20.350.

Adopted under notice filed as WSR 00-17-182 on August 23, 2000.

**Changes Other than Editing from Proposed to Adopted Version:** The mandatory alcohol server training program is now administered under the Liquor Control Board's Licensing and Regulation Division. Therefore, throughout the rules, the references to the agency's Enforcement and Education Division were changed to the "Licensing and Regulation Division."

The rules were renumbered to chapter 314-17 WAC, instead of the previously published chapter 314-13 WAC.

**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 23, Amended 0, Repealed 18.

**Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures:** New 23, Amended 0, Repealed 18.

**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 23, Amended 0, Repealed 18.

Effective Date of Rule: Thirty-one days after filing.

January 16, 2001

Eugene Prince

Chairman

## REPEALER

The following chapter of the Washington Administrative Code is repealed:

Chapter 314-14 WAC      Alcohol server training program.

## Chapter 314-17 WAC

### Mandatory Alcohol Server Training

## NEW SECTION

**WAC 314-17-005 What is the purpose of this chapter?** (1) RCW 66.20.300 through RCW 66.20.350 set up a mandatory alcohol server training program. These laws require persons who serve or supervise the service of alcohol for on-premises consumption to hold one of two permits, as outlined in this chapter.

(2) This chapter outlines how a person receives these permits, and how a person can become certified to provide alcohol server training.

## NEW SECTION

**WAC 314-17-010 Definitions.** The following definitions are to clarify the purpose and intent of the rules and laws governing mandatory alcohol server training. Additional definitions are in RCW 66.04.010 and 66.20.300.

(1) A "permit holder" is a person who holds either a Class 12 mixologist or a Class 13 server permit. The permit is the property of the permit holder, and can be used at any liquor licensed establishment.

(2) A "provider" is an individual, partnership, corporation, college, educational institute, or other bona fide legal entity that the board certifies to provide a board approved alcohol server education course (per RCW 66.20.300). The provider is a training entity.

(3) A "trainer" is an individual employed or authorized by a provider to conduct an alcohol server education course. Upon the successful completion of the course, the student will receive a Class 12 mixologist or Class 13 server permit from the trainer.

## NEW SECTION

**WAC 314-17-015 What are the two types of alcohol server training permits?** There are two types of permits for persons who serve alcohol for on-premises consumption, or who supervise the sale of alcohol for on-premises consumption:

<p><b>(1) Per RCW 66.20.310, a Class 12 mixologist permit is required for liquor licensees or their employees who:</b></p>	<p><b>(2) Per RCW 66.20.310, a Class 13 server permit is required for persons who:</b></p>
<p>(a) manage a premises licensed to sell alcohol beverages for on-premises consumption;</p> <p>(b) act as a bartender for selling or mixing alcohol beverages which may include spirits, beer, and/or wine for on-premises consumption; and/or</p> <p>(c) draw beer and/or wine from a tap and/or spirits from a dispensing device at an establishment licensed to sell liquor for on-premises consumption.</p> <p>(d) A Class 12 mixologist permit holder must be at least twenty-one years of age.</p> <p>(e) A Class 12 mixologist permit includes the authority to act as a server, under the Class 13 server permit.</p> <p>(f) See RCW 66.20.310(7) for exceptions for employees of grocery stores that have an on-premises liquor license.</p>	<p>(a) take orders for alcohol beverages to be consumed on-premises;</p> <p>(b) deliver alcohol beverages to customers for consumption on-premises; and/or</p> <p>(c) open and/or pour beer or wine into a customer's glass at the customer's table.</p> <p>(d) A class 13 server permit holder must be at least eighteen years of age.</p>

(3) Upon the temporary absence of a Class 12 mixologist permit holder, a Class 13 server permit holder who is at least twenty-one years of age may perform the functions of a Class 12 permit holder until a Class 12 permit holder can arrive to fulfill those duties, but in no event for more than thirty consecutive days.

**NEW SECTION**

**WAC 314-17-020 How long are the permits good for, and how does a permit holder renew?** (1) Class 12 mixologist and Class 13 server permits are valid for five years. The permits expire on the first day of the month, five years following the month the person successfully completed the alcohol server education course.

(2) In order to renew the permit, the mixologist or server must attend an alcohol server education course given by a board certified trainer or provider.

**NEW SECTION**

**WAC 314-17-025 Do permit holders have to carry their permit with them?** (1) Any time a licensee or employee is performing the duties outlined in WAC 314-17-015, the person must have:

(a) their Class 12 mixologist or Class 13 server permit on the premises, and

(b) one piece of identification (acceptable forms of identification are outlined in RCW 66.16.040).

(2) Both the permit and the identification must be available for inspection by any law enforcement officer.

(3) It will be considered a violation of this section for any person to:

(a) falsify a Class 12 mixologist or a Class 13 server permit; or

(b) keep or possess a Class 12 mixologist permit or a Class 13 server permit contrary to the provisions of this title.

**NEW SECTION**

**WAC 314-17-030 Are employers responsible to ensure that their employees hold an alcohol server permit?** All licensees who hold a license to sell liquor for on-premises consumption must ensure that any person that engages in the sale or service of liquor, or who supervises such activities, has a current and valid Class 12 mixologist or Class 13 server permit within sixty days of the date of hire. See RCW 66.20.310(7) for exceptions for grocery stores that have an on-premises liquor license.

(1) The permit must be in the same name and with the same identifying characteristics as indicated on the permit holder's identification (acceptable forms of identification are outlined in RCW 66.16.040).

(2) Per WAC 314-16-070(1), a person twenty-one years of age or older must be on the licensed premises to supervise the sale, service, and consumption of liquor.

**NEW SECTION**

**WAC 314-17-035 How are lost permits replaced?** To replace a lost Class 12 mixologist or Class 13 server permit, the permit holder can:

(1) contact the provider or trainer who issued the permit; or

(2) submit an affidavit of lost permit on a form provided by the board to the licensing and regulation division with a fee as prescribed by the board. The board will cancel the lost permit and issue a replacement permit.

**NEW SECTION**

**WAC 314-17-040 Can Class 13 server permit holders upgrade to a Class 12 mixologist permit when they turn twenty-one?** Class 12 mixologist permits are only issued to persons twenty-one years of age or older. Therefore, any eighteen, nineteen, or twenty year-old person who successfully completes a Class 12 mixologist class will be issued a Class 13 server permit.

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(1) Upon turning twenty-one years of age, the server may contact the provider or trainer who issued the permit and receive an upgraded Class 12 mixologist permit.

(2) The expiration date of the permit will remain five years from the date of the original class.

#### NEW SECTION

**WAC 314-17-045 How do I get a Class 12 mixologist or a Class 13 server permit in Washington if I was trained in another state?** (1) Per RCW 66.20.320(10), if you have completed an alcohol server education course in another state since July 1, 1993, and the course is also certified in Washington State, you may receive a Class 12 mixologist or a Class 13 server permit in Washington by completing the provider's Washington State supplement to the program. This supplement will cover Washington State liquor laws and regulations. (You can contact the board's licensing and regulation division to find out if the course you completed is certified in Washington.)

(2) The provider will issue you a Washington State permit, which will expire five years from the first day of the month following the date the original class was taken. (For example, if you completed the program in another state on June 15, 1996, the Washington permit will expire on July 1, 2001.)

#### NEW SECTION

**WAC 314-17-050 How can a person receive certification as a Class 12 mixologist or Class 13 server permit provider?** An individual, partnership, corporation, college, educational institute, or other bona fide legal entity may apply to be certified by the board to become a Class 12 mixologist and/or a Class 13 server permit provider.

(1) In order to get a course certified, the proposed provider must submit the following information to the board's licensing and regulation division:

- (a) a completed application form provided by the board;
- (b) a copy of the proposed curriculum (see WAC 314-17-060);
- (c) a copy of all audio, video, and instructional materials that will be used in the course;
- (d) a copy of all printed materials that will be provided to participants as part of the course; and
- (e) a copy of the examination(s) and explanation of the examination procedures necessary to pass the course.

(2) The board's licensing and regulation division will respond to the request for certification within forty-five days of receipt of the material. The board will either:

- (a) issue a letter of certification which will be valid for five years, or
- (b) provide a letter outlining what additions or changes need to be made to the course to meet the requirements outlined in this title. If the additions or changes are not received by the licensing and regulation division within thirty days, the application for course certification will be withdrawn.

(3) The board or its designee may attend any class provided by certified providers and their trainers at no charge, in order to evaluate the course for conformance with this title.

(4) The provider must receive prior approval from the board's licensing and regulation division before making any changes to the course content or method of presentation which has been certified by the board.

#### NEW SECTION

**WAC 314-17-055 Temporary certification as a provider.** (1) Persons or entities may apply for temporary certification by the board to become a Class 12 mixologist and/or a Class 13 server permit provider. Temporary certification may be issued by the board for up to six months. During this time period, the provider may adjust their course content or method of presentation without prior board approval, within the guidelines set by the board's licensing and regulation division in the temporary certification.

(2) In order to get a course certified, the proposed provider must submit the information outlined in WAC 314-17-050(1).

(3) The board's licensing and regulation division will evaluate the program to see if it meets the minimum standards set by RCW 66.20.300 through 66.20.350, and will respond to the request for temporary certification within forty-five days of receipt of the material. The board will either:

- (a) issue a letter of temporary certification which will be valid for up to six months, or
- (b) provide a letter outlining what additions or changes need to be made to the course to meet the requirements outlined in this title. If the additions or changes are not received by the licensing and regulation division within thirty days, the application for temporary certification will be withdrawn.

(4) The board or its designee may attend any class provided by certified providers and their trainers at no charge in order to evaluate the course for conformance with this title. If, in the opinion of the board or their designee, the provider does not comply with the lesson plan submitted and approved or any of the requirements of this title, the temporary certification may be immediately revoked.

(5) If permanent certification is not obtained during the six month temporary certification period, at the end of the temporary certification period, the provider must return the following materials to the board's licensing and regulation division:

- (a) the original letter of board certification,
- (b) any Class 12 mixologist and/or Class 13 server permit forms, and
- (c) records of all permits issued during the temporary certification period.

**NEW SECTION**

**WAC 314-17-060 What are the course standards for Class 12 mixologist and Class 13 server permits?**

<p>(1) Requirements for a Class 12 mixologist permit course</p>	<p>(a) The course of instruction must be at least three hours in length. The course may be by video or audio-visual presentation ("video" includes via videotape or via computer, including Internet applications and CD-ROMS).</p> <p>(b) In addition to meeting the requirements of RCW 66.20.320 (1)(d), the course must contain a standard workbook that covers the specifics of Washington liquor laws and regulations as they relate to:</p> <ul style="list-style-type: none"> <li>(i) recognizing and dealing with intoxicated persons,</li> <li>(ii) how to check identification,</li> <li>(iii) employment of persons under twenty-one years of age,</li> <li>(iv) legal hours of liquor sale and service,</li> <li>(v) prohibited conduct by patrons and employees,</li> <li>(vi) required signs in liquor licensed establishments,</li> <li>(vii) minimum lighting requirements, and</li> <li>(viii) administrative and criminal sanctions against liquor licensees and Class 12 and Class 13 permit holders.</li> </ul>
<p>(2) Requirements for a Class 13 server permit course</p>	<p>(a) The course of instruction must be at least one hour in length. The course may be by video or audio-visual presentation of not less than thirty minutes together with facilitation by an authorized provider or trainer, or a sixty-minute self teaching video ("video" includes via videotape or via computer, including Internet applications and CD-ROMS).</p> <p>(b) In addition to meeting the requirements of RCW 66.20.320 (1)(d), the course must contain a standard workbook that covers the specifics of Washington liquor laws and regulations as they relate to:</p> <ul style="list-style-type: none"> <li>(i) recognizing and dealing with intoxicated persons,</li> <li>(ii) how to check identification,</li> <li>(iii) employment of persons under twenty-one years of age,</li> <li>(iv) legal hours of liquor sale and service,</li> <li>(v) prohibited conduct by patrons and employees, and</li> <li>(vi) administrative and criminal sanctions against licensees and Class 13 server permit holders.</li> </ul>

<p>(3) Requirements and guidelines for both Class 12 mixologist and Class 13 server permit courses</p>	<p>(a) At the beginning of each class, the trainer must give each student:</p> <ul style="list-style-type: none"> <li>(i) an enrollment agreement that clearly states the obligations of the trainer and student, refund policies, and procedures to terminate enrollment;</li> <li>(ii) a statement that says, "If you have questions, comments, or complaints about the program, please call the liquor control board" and includes the appropriate board telephone numbers; and</li> <li>(iii) a notice that students must complete the course in order to take the exam.</li> </ul> <p>(b) Students must complete a written examination in the presence of the certified trainer that demonstrates the student is familiar with the liquor laws and rules outlined in subsections (2) and (3) of this rule. During the examination, trainees may not refer to any written or video material or have a discussion with another person during the exam (unless the instructor authorizes the student to use an interpreter).</p> <p>(c) Providers or trainers may not suggest that the state of Washington, the board, or any state agency endorses or recommends the provider's program to the exclusion of any other program.</p>
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**NEW SECTION**

**WAC 314-17-065 How does a provider receive certification for its trainers?** (1) To receive board certification for trainers to teach a course approved by the board, the provider must submit a form provided by the board to the board's licensing and regulation division.

- (2) The provider will only contract with trainers who:
- (a) have a minimum of two years of post-secondary education in one or more of the following fields or a combination of the following fields, or equivalent years of experience:
    - (i) training;
    - (ii) education;
    - (iii) law;
    - (iv) law enforcement;
    - (v) substance abuse rehabilitation; and/or
    - (vi) hospitality industry.
  - (b) hold a Class 12 mixologist permit; and
  - (c) meet the criminal history requirements outlined in WAC 314-17-070.

(3) The board's licensing and regulation division will respond to the request for trainer certification within thirty days of receipt of the request. The board will either:

- (a) issue a letter to the provider and each trainer that authorizes the trainer(s) to teach the approved course (the trainer's authorization expires on the date the provider's certification expires); or
- (b) send a letter to the provider outlining why an applicant trainer does not meet the qualifications outlined in this title.
- (c) Trainers may not begin training certified alcohol server education courses until they receive their authorization letter from the board.

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(4) It is the responsibility of the approved provider to keep the board's licensing and regulation division informed of all current trainers.

(a) The provider must notify the board's licensing and regulation division within seventy-two hours of the termination of trainer, or within seventy-two hours of when the provider is notified that a trainer has terminated their employment.

(b) For the hiring of new trainers, the provider can either:

- (i) notify the board's licensing and regulation division in writing of any new trainers within thirty days of the date of hire; or
- (ii) provide a list of all current trainers to the board's licensing and regulation division monthly.

**NEW SECTION**

**WAC 314-17-070 What criminal history would prevent a person from receiving certification to be a trainer?**

(1) The board's licensing and regulation division may process a criminal history check on a person applying to be an alcohol server education trainer, using a point system to determine if the person qualifies. The licensing and regulation division will not certify a trainer who accumulates eight or more points as indicated below:

Description	Time period during which points will be assigned	Points the board will assign
Gross misdemeanor conviction	Three years	5 points
Misdemeanor conviction - involving alcohol	Three years	4 points
Misdemeanor conviction - not involving alcohol	Three years	3 points
Driving under the influence conviction	Three years	5 points
Reckless and/or negligent driving conviction - alcohol related	Three years	5 points
Reckless and/or negligent driving conviction - not alcohol related	Three years	4 points
Hit and run, attended - conviction	Three years	5 points
Two to five failures to appear for court conviction	Three years	4 points
Six or more failures to appear for court conviction	Three years	8 points
Felony conviction	Five years	12 points
On parole from a felony	Five years	8 points
Nondisclosure of arrests or convictions to the board	Any arrest or conviction since age eighteen	4 points each, PLUS the points of the fact which was not disclosed
Misrepresentation of fact to the board		8 points, PLUS the points of the fact which was not disclosed

(2) If a case is pending for an alleged conviction that would earn eight or more points, the board's licensing and

regulation division will hold the trainer's application for the disposition of the case. If the disposition is not settled within ninety days, the board will withdraw the application.

(3) Persons whose applications to become an alcohol server education trainer are denied by the licensing and regulation division due to a criminal history may request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW). At the board's discretion it may elect to conduct the adjudicative hearing itself or it may assign the matter to the office of administrative hearings.

**NEW SECTION**

**WAC 314-17-075 How does a provider or trainer get Class 12 mixologist and Class 13 server permits to issue to course participants?**

(1) Authorized providers and trainers of certified programs may order Class 12 mixologist and Class 13 server training permits from the board's licensing and regulation division, to issue to students who successfully complete an approved course (see WAC 314-17-080(3) regarding eighteen, nineteen, and twenty year-old students who complete a Class 12 mixologist course).

(2) The permits must be ordered on a form provided by the board. The board will charge a nominal fee in order to cover its costs to produce the permits.

**NEW SECTION**

**WAC 314-17-080 What are the age requirements for trainees to receive Class 12 mixologist and Class 13 server permits?**

(1) Class 12 mixologist permits are only issued to persons twenty-one years of age or older. Therefore, any person who is eighteen, nineteen, or twenty years of age who successfully completes a Class 12 mixologist course will be issued a Class 13 server permit.

(2) Class 13 server permits may only be issued to persons eighteen years of age and older.

(3) Upon turning twenty-one years of age, a Class 13 server permit holder may receive an upgraded Class 12 mixologist permit from the provider or trainer who issued the permit. The expiration date of the permit will remain five years from the date of the class.

(4) If a provider or trainer issues a Class 12 mixologist permit in error to a person under twenty-one years of age, the provider or trainer must take the following steps:

- (a) contact the permit holder and notify him/her that they received the incorrect permit;
- (b) obtain the original Class 12 mixologist permit from the permit holder; and
- (c) issue the correct Class 13 server permit (only after receiving the original Class 12 mixologist permit that was issued in error).
- (d) Within thirty days of the date the permit was issued in error, or of being notified by the board of the error, the provider or trainer must:

(i) provide the tear-off portion of the corrected Class 13 server permit to the board's licensing and regulation division; or

PERMANENT



(ii) if unable to contact the permit holder and issue a corrected permit, the provider or trainer can provide the board's licensing and regulation division proof that a certified letter was sent to the trainee who received the Class 12 mixologist permit in error.

**NEW SECTION**

**WAC 314-17-085 What records does the provider or trainer need to provide to the board or keep on file?** (1) Within thirty days of all training classes, the provider or trainer must submit the tear-off portion of the permit form for all Class 12 and/or Class 13 permits issued to the board's licensing and regulation division.

(2) The following information must be kept at the trainer's place of business, available for inspection and copying by board employees, for a period of five years:

(a) copies of all Class 12 and/or Class 13 permits issued by the provider or authorized trainers; and

(b) all course presentation information, including the location, date, and time of every class given together with the name of the trainer and name of students that attended each class.

(3) The provider or trainer must provide the following information to the board or its designee upon request:

(a) advance notice of any classes that have been pre-scheduled; and

(b) copies of program publications, brochures, pamphlets, scripts, or any other advertising materials related to the alcohol server training course.

**NEW SECTION**

**WAC 314-17-090 Prohibited conduct by providers and trainers.** No provider or trainer will:

(1) make any material false or misleading statement to induce or prevent board actions;

(2) falsify, alter, or tamper with alcohol server training permits or records;

(3) prohibit or interfere with on-site observations by the board or its staff, or fail to assist the board or its staff in scheduling these observations.

Violation Type	1st Violation	2nd Violation	3rd Violation	4th Violation
<b>AFTER HOURS:</b> Selling, serving, or allowing alcohol to be consumed between 2 a.m. and 6 a.m. See WAC 314-16-050.	5 day permit suspension OR \$100 monetary option	10 day permit suspension OR \$200 monetary option	30 day permit suspension OR \$400 monetary option	revocation of permit
<b>DISORDERLY CONDUCT:</b> Disorderly conduct by the licensee or employee, or allowing patrons to engage in disorderly conduct. See WAC 314-16-120.	5 day permit suspension OR \$100 monetary option	10 day permit suspension OR \$200 monetary option	30 day permit suspension OR \$400 monetary option	revocation of permit
<b>INTOXICATED PERSONS:</b> Selling or serving to an apparently intoxicated person or allowing such a person to possess or consume alcohol. See RCW 66.44.200 and WAC 314-16-150.	5 day permit suspension OR \$100 monetary option	10 day permit suspension OR \$200 monetary option	30 day permit suspension OR \$400 monetary option	revocation of permit

**NEW SECTION**

**WAC 314-17-095 Is the provider responsible for the acts of its trainers?** The board may hold a provider responsible for any act or omission of the provider's program personnel, authorized trainers, or representatives that violates any law or rule affecting provider privileges.

**NEW SECTION**

**WAC 314-17-100 What are the penalties if provider or a trainer violates a liquor law or regulation?** Following are the penalties for a provider or trainer that violates any of the provisions of RCW 66.20.300 through 66.20.350 or any of the requirements of chapter 314-17 WAC (except for providers with temporary certification, see WAC 314-17-055(4)):

(1) First violation	(a) The provider or trainer will receive a notice of intended suspension/revocation of the board's certification or authorization. (b) This notice will give the provider and/or trainer thirty days to correct any violations. (c) If the problem is rectified, no further action will be taken.
(2) First violation not resolved and/or second violation occurs	(a) The board will suspend its approval and certification of the provider and/or trainer for up to six months. (b) A monetary penalty of up to five hundred dollars may be imposed in lieu of suspension. (c) Prior to lifting the suspension or accepting a monetary penalty, the provider and/or trainer must correct the problem(s) which caused the proposed suspension.
(3) Successive violations within a two-year period	The board may cancel or suspend the approval and certification of the provider and/or trainer for up to five years.

**NEW SECTION**

**WAC 314-17-105 What are the penalties if a permit holder violates the liquor laws?** (1) Penalties assessed within three year period will normally be as follows:

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Violation Type	1st Violation	2nd Violation	3rd Violation	4th Violation
<b>LEWD CONDUCT:</b> Allowing lewd conduct on the licensed premises. See WAC 314-16-125.	5 day permit suspension OR \$100 monetary option	10 day permit suspension OR \$200 monetary option	30 day permit suspension OR \$400 monetary option	revocation of permit
<b>MISCELLANEOUS:</b> Violation of other retail liquor laws or rules.	5 day permit suspension OR \$100 monetary option	10 day permit suspension OR \$200 monetary option	30 day permit suspension OR \$400 monetary option	revocation of permit
<b>MINORS:</b> Selling or serving alcohol to a person under twenty-one years of age. See RCW 66.44.310 and WAC 314-16-150.	5 day permit suspension OR \$200 monetary option	10 day permit suspension OR \$400 monetary option	30 day permit suspension OR \$600 monetary option	revocation of permit
<b>MINORS:</b> Allowing persons under twenty-one years of age to frequent a restricted premises or area. See RCW 66.44.310 and WAC 314-16-150.	5 day permit suspension OR \$100 monetary option	10 day permit suspension OR \$200 monetary option	30 day permit suspension OR \$400 monetary option	revocation of permit
<b>OBSTRUCTING AN OFFICER:</b> Obstructing a law enforcement officer, or failure to allow an inspection. See RCW 66.28.090.	5 day permit suspension OR \$100 monetary option	10 day permit suspension OR \$200 monetary option	30 day permit suspension OR \$400 monetary option	revocation of permit
<b>OTHER VIOLATION OF LAWS:</b> Conviction of liquor laws, DUI or felony.	5 day permit suspension OR \$100 monetary option	revocation of permit		
<b>PERMIT:</b> Failure to produce permit and/or ID upon request. See RCW 66.20.310(2) and WAC 314-15-025.	5 day permit suspension OR \$100 monetary option	10 day permit suspension OR \$200 monetary option	30 day permit suspension OR \$400 monetary option	revocation of permit
<b>PRIVATE CLUBS:</b> Prohibitions involving club liquor and use by the general public. See WAC 314-40-010.	5 day permit suspension OR \$100 monetary option	10 day permit suspension OR \$200 monetary option	30 day permit suspension OR \$400 monetary option	revocation of permit

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 314-17-110 Can the board impose sanctions or penalties other than those indicated in WAC 314-17-105?**

(1) Based on aggravating or mitigating circumstances, the board may impose a different penalty or suspension than the standard penalties and suspensions outlined in WAC 314-17-105.

(2) Examples of aggravating and mitigating circumstances include, but are not limited to:

(a) Examples of aggravating circumstances:	(b) Examples of mitigating circumstances:
<ul style="list-style-type: none"> <li>Patron's identification not checked;</li> <li>Non-cooperation with or obstructing any law enforcement officer;</li> <li>Permit holder did not call law enforcement officer when requested by a customer or a board employee.</li> </ul>	<ul style="list-style-type: none"> <li>Permit holder checked one of the acceptable forms of identification (per RCW 66.16.040);</li> <li>Cooperation with law enforcement officer(s);</li> <li>Permit holder used a licensee certification card (see RCW 66.20.190).</li> </ul>

**NEW SECTION**

**WAC 314-17-115 Can a Class 12 or Class 13 permit holder work on a licensed premises while his/her permit is suspended?**

(1) During a suspension period, permit holders may work on a liquor licensed premises provided they are not involved in any way in the sale or service of alcohol.

(2) No permit is required to be a cashier, receptionist, cook, or custodian.

**WSR 01-03-086  
PERMANENT RULES  
LIQUOR CONTROL BOARD**

[Filed January 17, 2001, 1:16 p.m.]

Date of Adoption: December 20, 2000.

Purpose: Chapter 314-29 WAC will replace existing chapter 314-04 WAC. This chapter outlines the process the Liquor Control Board follows for the administrative violation notice process for alleged violations of liquor laws or regulations.

PERMANENT

Citation of Existing Rules Affected by this Order:  
Repealing chapter 314-04 WAC.

Statutory Authority for Adoption: RCW 66.08.030, 66.44.010.

Adopted under notice filed as WSR 00-22-113 on November 1, 2000.

Changes Other than Editing from Proposed to Adopted Version: In proposed WAC 314-29-005(1), language was added to clarify that the licensee will receive an administrative violation notice in the mail or in person from the liquor control agent.

In proposed WAC 314-29-005(2), a reference to the agency's Licensing and Regulation Division was added, since some of the violations described in this process will come from nonretail enforcement agents who are part of the Licensing and Regulation Division.

In proposed WAC 314-29-010(1), language was added to clarify that the licensee has twenty days from the receipt of the administrative violation notice to respond.

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 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 0, 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 0, Repealed 3.

Effective Date of Rule: Thirty-one days after filing.

January 16, 2001

Eugene Prince

Chairman

### REPEALER

The following chapters of the Washington Administrative code are repealed:

Chapter 314-04 WAC Hearings

### NEW SECTION

**WAC 314-29-005 What are the procedures for a licensee or a mandatory alcohol server training permit holder to be notified of an alleged violation of a board statute or regulation?** (1) When an enforcement agent believes that a licensee or a mandatory alcohol server training permit holder has violated a board statute or regulation, the agent will prepare an administrative violation notice (AVN) and mail or deliver the notice to the licensee or permit holder. This notice will constitute the notice of initial board action,

and the remaining steps in the prehearing procedure as outlined in WAC 314-17-010 will be followed.

(2) The AVN notice will include:

(a) a brief narrative description of the violation(s) the agent is charging;

(b) the date(s) of the violation(s);

(c) a copy of the law(s) and/or regulation(s) allegedly violated;

(d) an outline of the licensee's or permit holder's options as outlined in WAC 314-29-010; and

(e) the recommended penalty as follows:

(i) For cases in which there are no aggravating circumstances as outlined in WAC 314-12-330 and 314-12-340 as now or hereafter amended, the recommended penalty will be the standard penalty as outlined in WAC 314-12-170 and 314-12-300 through WAC 314-12-320 for licensees, and in WAC 314-14-160 and WAC 314-14-165 for mandatory alcohol server training permit holders, as now or hereafter amended.

(ii) For cases in which there are aggravating circumstances as outlined in WAC 314-12-330 and 314-12-340 as now or hereafter amended, the agent will describe the circumstances in a report to the director of the enforcement and education division or the director of the licensing and regulation division. Under the provisions of WAC 314-12-330 and 314-12-340 as now or hereafter amended, the director of the education and enforcement division or the director of the licensing and regulation division may recommend a penalty other than the standard penalty outlined in WAC 314-12-170 and 314-12-300 through WAC 314-12-320 for licensees, and in WAC 314-14-160 for mandatory alcohol server training permit holders, as now or hereafter amended.

### NEW SECTION

**WAC 314-29-010 What options does a licensee or permit holder have once he/she receives a notice of initial board action?** (1) When a licensee or a mandatory alcohol server training permit holder receives a notice of initial board action from a liquor control agent in the mail or in person, the licensee or permit holder has twenty days from receipt of the notice to:

(a) accept the recommended penalty; or

(b) request a settlement conference; or

(c) request an administrative hearing in writing.

**(2) What are the procedures when a licensee or mandatory alcohol server training permit holder requests a settlement conference?**

(a) If the licensee or permit holder requests a settlement conference, the agent in charge or designee will schedule the conference.

(b) Both the licensee or permit holder and the agent in charge or designee will discuss the circumstances surrounding the charge, the recommended penalty, and any aggravating or mitigating factors.

(c) If a compromise is reached, the agent in charge or designee will prepare a proposed settlement agreement and will forward it to the board for approval.

(i) If the board approves the compromise, a copy of the signed settlement agreement will be sent to the licensee or permit holder, and will conclude the case.

(ii) If the board does not approve the compromise, the board will notify the licensee or permit holder of the decision. The licensee or permit holder will be given the option of agreeing to any changes the board has made in the agreement, or of requesting an administrative hearing on the charges in writing within twenty days of receipt of the notice of board action.

(d) If the licensee or permit holder and the agent in charge or designee cannot reach agreement on a settlement proposal, the licensee may accept the originally recommended penalty, or the agent in charge or designee will forward a request for an administrative hearing to the board's hearings coordinator.

**(3) What are the procedures when a licensee or mandatory alcohol server training permit holder requests an administrative hearing?**

(a) If the licensee or permit holder requests an administrative hearing in writing within twenty days, it is conducted pursuant to chapter 34.05 RCW (Washington Administrative Procedure Act).

(b) The board's hearing coordinator will notify the assistant attorney general of the licensee's or permit holder's request for an administrative hearing.

(c) The assistant attorney general will draft an administrative complaint and send it to the licensee or permit holder and to the office of administrative hearings.

(d) The office of administrative hearings will schedule the hearing date, and notify the licensee or permit holder and his/her attorney and the assistant attorney general in writing of the hearing date, time, and location.

(e) The hearing will be conducted by an administrative law judge assigned by the office of administrative hearings. Subpoenas may be issued by an attorney for any party, or by the assigned administrative law judge.

(f) At the hearing, the assistant attorney general or a designee will present witnesses and other evidence on behalf of the board's enforcement staff.

(g) At the hearing, the licensee or permit holder may be represented by an attorney or may choose to represent himself or herself. The licensee or permit holder or his/her attorney will be allowed to present witnesses or other relevant information.

**(4) What will happen after the administrative hearing?**

(a) Following the hearing, the administrative law judge will prepare an initial order and send it to the licensee or permit holder and the assistant attorney general.

(b) Either the licensee or permit holder or the assistant attorney general may file a petition for review of the initial order with the liquor control board within twenty days of the date of service of the initial order. The petition for review must:

(i) specify the portions of the initial order to which exception is taken;

(ii) refer to the evidence of record which is relied upon to support the petition; and

(iii) be filed with the liquor control board within twenty days of the date of service of the petition.

(iv) Copies of the reply must be mailed to all other parties or their representatives at the time the reply is filed.

(c) The administrative record, the initial order, and any exceptions filed by the parties will be circulated to the board members for review.

(d) Following this review, the board will enter a final order which is appealable under the provisions of RCW 34.05.510 through 34.05.598 (Washington Administrative Procedure Act).

**(5) What happens if a licensee or mandatory alcohol server training permit holder does not respond to the notice of initial board action within twenty days?** If a licensee or permit holder does not respond to the notice of initial board action within twenty days, the recommended penalty will go into effect.

**WSR 01-03-087**

**PERMANENT RULES**

**LIQUOR CONTROL BOARD**

[Filed January 17, 2001, 1:19 p.m.]

Date of Adoption: December 20, 2000.

Purpose: Chapter 314-09 WAC is a new chapter of rules that outlines the process for persons and entities to object to the issuance or renewal of a liquor license or permit, and an applicant/licensee's options when his/her liquor license or permit is denied or action is taken to not renew the license or permit.

Citation of Existing Rules Affected by this Order: Amending WAC 314-12-020 Applicants—Qualifications—Fingerprinting—Criminal history record information checks—Continuing conditions—Agreements—Reconsideration of denied applications.

Statutory Authority for Adoption: RCW 66.08.030, 66.24.010, 66.08.150.

Adopted under notice filed as WSR 00-21-117 on October 18, 2000.

Changes Other than Editing from Proposed to Adopted Version: Language was added to proposed WAC 314-09-015(2) to clarify that the board's decision to proceed with nonrenewal of a liquor license contested by a government jurisdiction will be based on the jurisdiction's input *as well as any information in the file*.

The agency originally proposed to delete the existing rule subsection that deals with license denials. WAC 314-12-020(6). Instead, this subsection will be amended to clarify that it deals with applications denied for reasons other than objection, while the new rules will cover the process or applications denied because of objection.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 3, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 3, 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 3, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 16, 2001

Eugene Prince

Chairman

**AMENDATORY SECTION** (Amending WSR 96-03-004, filed 1/4/96, effective 2/4/96)

**WAC 314-12-020 Applicants—Qualifications—Fingerprinting—Criminal history record information checks—Continuing conditions—Agreements—Reconsideration of denied applications.** (1) Where a married person is an applicant for, or holder of a license, the spouse of such applicant, if the parties are maintaining a marital community, shall be required to have the same qualifications as the applicant.

(2) The board may require, as a condition precedent to the original issuance of any annual license, fingerprinting and criminal history record information checks on any person not previously licensed by the board. In addition to the applicant, fingerprinting and criminal history record information checks may be required of the applicant's spouse. In the case of a corporation, fingerprinting and criminal history record information checks may be required of its present and any subsequent officers, manager, and stockholders who hold more than ten percent of the total issued and outstanding stock of the applicant corporation if such persons have not previously had their fingerprints recorded with the board. In the case of a partnership, fingerprinting and criminal history record information checks may be required of all general partners and their spouses. Such fingerprints as are required by the board shall be submitted on forms provided by the board to the Washington state identification section of the Washington state patrol and to the identification division of the Federal Bureau of Investigation in order that these agencies may search their records for prior arrests and convictions of the individuals fingerprinted. The applicant shall give full cooperation to the board and shall assist the board in all aspects of the fingerprinting and criminal history record information check. The applicant may be required to pay a minimal fee to the agency which performs the fingerprinting and criminal history process.

(3) The restrictions on license issuance specified in RCW 66.24.010(2) shall be construed to be continuing conditions for retaining an existing license and any licensed person who ceases to be eligible for issuance of a license under RCW 66.44.010(2) shall also cease to be eligible to hold any license already issued.

(4) An applicant for any license or permit issued by the liquor control board, who employs an attorney or agent in

connection with an application for such license or permit, shall, upon request, submit in writing the entire agreement between such applicant for license or permit, and the attorney or agent. No part of any compensation agreed upon, paid or received shall in any manner be contingent upon the outcome of the matter before said board. In the event the compensation agreed upon, paid or received, is determined to be excessive, the board reserves the right to refuse to consider the application for such license or permit.

(5) The board, in considering an application for a license, may require, in addition to all other information requested concerning the proposed licensed premises (see WAC 314-12-035), that the applicant justify the issuance of the license sought based on an analysis of population trends compared to licenses in the area, any uniqueness of the proposed operation, any unusual circumstances present, plus any other information the applicant(s) may feel will justify the issuance of the license sought.

(6) The board may, at its discretion and for good cause shown, reconsider (~~a denied application~~) an application denied for reasons other than objection upon receipt of new information within sixty days of the original denial date. Such reconsiderations are not considered part of the normal license application procedure and must be justified on an individual basis. Should the board determine to reconsider a denied application, notice of such reconsideration shall be given to those persons and/or entities entitled to receive notice of an original license application pursuant to RCW 66.24.010(8). Such notice shall be given at least twenty days prior to final determination on the reconsideration. Additionally, at the same time the notice is given, a press release will be issued informing the public of the impending reconsideration. The process for applications denied due to objection is outlined in chapter 314-09 WAC.

### Chapter 314-09 WAC

#### Contested liquor license applications and renewals

#### NEW SECTION

**WAC 314-09-005 What is the purpose of chapter 314-09 WAC?** The purpose of chapter 314-09 WAC is to outline:

(1) the process for persons, entities, and governmental jurisdictions to object to the issuance or renewal of a liquor license or permit; and

(2) an applicant or licensee's options when his/her liquor license or permit is denied or action is taken to not renew his/her liquor license or permit.

#### NEW SECTION

**WAC 314-09-010 Objections to liquor license applications (1) How can persons, entities, and governmental jurisdictions object to the issuance of a liquor license?** Per RCW 66.24.010 (8)(9), the board will notify certain entities of the following types of annual or special occasion liquor license or permit applications. In addition to the following

entities, any person or group may comment in writing to the board regarding a liquor license application.

Type of Application	Entities the board will notify
<ul style="list-style-type: none"> <li>■ Applications for an annual license or permit at a new location that would allow the sale and/or service of alcohol beverage to the public for on-premises consumption or to-go; and</li> <li>■ Applications to change the class of an existing annual liquor license or permit that allows the sale and/or service of alcohol beverage to the public for on-premises consumption or to-go.</li> </ul>	<ul style="list-style-type: none"> <li>■ Governmental jurisdictions in which the premises is located, and</li> <li>■ Schools, churches, and public institutions within 500 feet of the premises to be licensed (as measured according to RCW 66.24.010(9)).</li> </ul>
<ul style="list-style-type: none"> <li>■ Applications for any annual or special occasion liquor license or permit that allows the sale and/or service of alcohol beverage; and</li> <li>■ Changes of ownership at existing licensed premises.</li> </ul>	<p>Governmental jurisdictions only.</p>

**(2) What will happen if a person or entity objects to a liquor license application?** When deciding whether to issue or deny an annual liquor license application, the board will give due consideration to input from governmental jurisdictions in which the premises is located; private schools, churches, and public institutions within 500 feet of the premises (as measured according to RCW 66.24.010(9)); and other persons or groups.

(a) Per RCW 66.24.010(9), the board will not issue a new retail liquor license if a tax-supported public elementary or secondary school within 500 feet of the premises to be licensed objects to the application (500 feet as measured according to RCW 66.24.010(9)).

(b) At its discretion, the board may hold a public meeting to gather input from interested parties before making a decision on a liquor license application. If the board decides to hold a public meeting, it will notify all persons or entities who have legal standing to be notified of a liquor license application under RCW 66.24.010, and all persons who gave comment on the application. The record of the public meeting will be part of any record should the matter result in an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW).

(c) If the board contemplates issuing a license over the objection of a governmental jurisdiction in which the premises is located, the government subdivision may request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW). If the board, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the licensee will be notified and given the opportunity to present evidence at the hearing.

(d) If the board denies a liquor license application based on the objection from a governmental jurisdiction; a private school, church, or public institution within 500 feet of the premises (as measured according to RCW 66.24.010(9)); and/or other persons or groups, the applicant(s) may either:

(i) reapply for the license or permit no sooner than one year from the original denial date; or

(ii) submit a written request, within twenty days of the date on the denial letter, for an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW).

**NEW SECTION**

**WAC 314-09-015 Objections to liquor license renewals (1) How can local governmental jurisdictions object to the renewal of a liquor license?** (a) The board will give governmental jurisdictions sixty days written notice of premises that hold annual liquor licenses in that jurisdiction that are up for renewal.

(b) Per RCW 66.24.010(8), if a governmental jurisdiction wants to object to the renewal of a liquor license in its jurisdiction, it must submit a letter to the board detailing the reason(s) for the objection and a statement of all facts on which the objections are based. This letter must be received by the board at least fifteen days before the liquor license expires.

**(2) What will happen if a governmental jurisdiction objects to the renewal of a liquor license?** (a) The board will give due consideration to a governmental jurisdiction's objection to a liquor license renewal of a premises in its jurisdiction. Based on the governmental jurisdiction's input and any information in the licensing file, the board will decide to either renew the liquor license, or to proceed with non-renewal.

(b) At its discretion, the board may hold a public meeting to gather input from interested parties before making a decision on a liquor license renewal. If the board decides to hold a public meeting, it will notify the governmental jurisdiction(s) and any other persons who gave comment on the renewal. The record of the public meeting will be part of any record should the matter result in an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW).

(c) Board decides to renew the liquor license:	(d) Board decides to pursue non-renewal of the liquor license:
<p>(i) The board will notify the governmental jurisdiction(s) in writing of its intent to renew the license, stating the reason for this decision.</p> <p>(ii) The governmental jurisdiction(s) may contest the proposed renewal and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW).</p> <p>(iii) If the board, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the licensee will be notified and given the opportunity to present evidence at the hearing.</p>	<p>(i) The board will notify the licensee in writing of its intent to not renew the license, stating the reason for this decision.</p> <p>(ii) The licensee may contest the proposed non-renewal and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW).</p> <p>(iii) If the licensee requests a hearing, the governmental jurisdiction(s) will be notified and required to present evidence at the hearing to support its recommendation.</p>

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<p>(iv) The board will consider the evidence, and will subsequently enter a final order announcing its decision.</p>	<p>(iv) The board will consider the evidence, and will subsequently enter a final order announcing its decision.</p>
<p>(v) The governmental jurisdiction(s) or the licensee may appeal the final order of the board to the superior court for judicial review (under chapter 34.05 RCW).</p>	<p>(v) The governmental jurisdiction(s) or the licensee may appeal the final order of the board to the superior court for judicial review (under chapter 34.05 RCW).</p>
<p>(vi) During the hearing and any subsequent appeal process, the licensee will be issued a temporary operating permit for the liquor license until a final decision is made.</p>	<p>(vi) During the hearing and any subsequent appeal process, the licensee is issued a temporary operating permit for the liquor license until a final decision is made.</p>

**WSR 01-03-089**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Economic Services Administration)  
 (Division of Child Support)  
 [Filed January 17, 2001, 3:18 p.m.]

Date of Adoption: January 17, 2001.

Purpose: The Division of Child Support is repealing chapters 388-11, 388-13, and 388-14 WAC; rewriting and revising rules for clarity; and putting all DCS rules into one chapter, chapter 388-14A WAC. There are no policy changes in this rule making, but the rules have been rewritten under the Governor's Executive Order 97-02 on regulatory improvement. Below is a cross-reference guide showing where in chapter 388-14A WAC you can find the issues addressed by chapters 388-11, 388-13, and 388-14 WAC.

**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 01-05 issue of the Register.

Citation of Existing Rules Affected by this Order: Repealing chapters 388-11, 388-13, and 388-14 WAC.

Statutory Authority for Adoption: RCW 74.08.090 is the general rule-making authority.

**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 01-05 issue of the Register.

Adopted under notice filed as WSR 00-21-113 on October 18 [November 1], 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 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 141, Amended 0, Repealed 101.

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 141, Amended 0, Repealed 101.

Effective Date of Rule: Thirty-one days after filing.

January 17, 2001

Charles Hunter, Director  
 Administrative Services Division

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 01-05 issue of the Register.

**WSR 01-03-114**  
**PERMANENT RULES**  
**BOARD OF NURSING**  
**HOME ADMINISTRATORS**

[Filed January 22, 2001, 12:57 p.m.]

Date of Adoption: September 5, 2000.

Purpose: Rule is no longer necessary because of changed circumstances.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-843-072 Examination procedures and 246-843-074 Examination review and appeal.

Statutory Authority for Adoption: RCW 18.52.061.

Adopted under preproposal statement of inquiry filed as WSR 00-15-078 on July 19, 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 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 2.

Effective Date of Rule: Thirty-one days after filing.

September 13, 2000

Barbara A. Hayes  
 Program Manager

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 246-843-072	Examination candidate procedures.
WAC 246-843-074	Examination review and appeal.

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**WSR 01-03-115**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**

[Filed January 22, 2001, 12:59 p.m.]

Date of Adoption: September 29, 2000.

Purpose: This rule stipulates that physicians whose licenses have expired more than three years must meet the current licensing requirements set by statute and rule.

Statutory Authority for Adoption: RCW 18.71.017.

Adopted under notice filed as WSR 00-16-109 on August 2, 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.

December 18, 2000

Maryella E. Jansen

Acting Executive Director

by Bonnie King

**NEW SECTION**

**WAC 246-919-475 Expired license.** (1) If the license has expired for three years or less the practitioner must meet the requirements of chapter 246-12 WAC, Part 2.

(2) If the license has expired for over three years, the practitioner must:

(a) Reapply for licensing under current requirements as stipulated in RCW 18.71.050 (1)(b) and WAC 246-919-330; and

(b) Meet the requirements of chapter 246-12 WAC, Part 2.

**WSR 01-03-121**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
(Division of Assistance Programs)

[Filed January 22, 2001, 4:17 p.m., effective March 1, 2001]

Date of Adoption: January 22, 2001.

Purpose: Repeal WAC 388-400-0015 and amend the following WAC sections to eliminate the general assistance

for children (GA-H) program and serve children living with guardians or custodians under the temporary assistance for needy families (TANF) program, WAC 388-408-0005, 388-408-0010, 388-408-0015, 388-408-0020, 388-408-0025, 388-408-0030, 388-400-0005, 388-404-0005, 388-454-0005, and 388-454-0010.

Citation of Existing Rules Affected by this Order: WAC 388-400-0015 General assistance for children—Summary of eligibility requirements, 388-408-0005 Definition of assistance unit for cash assistance programs, 388-408-0010 Assistance units for general assistance, 388-408-0015 Assistance units for temporary assistance for needy families (TANF) or state family assistance (SFA), 388-408-0020 Who is excluded from TANF or SFA assistance units?, 388-408-0025 Optional TANF or SFA assistance unit members, 388-408-0030 Consolidation of TANF or SFA assistance units, 388-400-0005 Who is eligible for temporary assistance for needy families?, 388-404-0005 How does a child's age affect their eligibility for TANF, SFA or GA-H?, 388-454-0005 Living in the home of a relative or guardian requirement for TANF, SFA and GA-H, and 388-454-0010 Definition of a parent or other relative for TANF or SFA.

Repealing WAC 388-400-0015 General assistance for children—Summary of eligibility requirements; and amending WAC 388-408-0005, 388-408-0010, 388-408-0015, 388-408-0020, 388-408-0025, 388-408-0030, 388-400-0005, 388-404-0005, 388-454-0005, and 388-454-0010.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, EHB 2487 as passed by the 56th legislature of the state of Washington.

Adopted under notice filed as WSR 00-24-037 on November 29, 2000.

Changes Other than Editing from Proposed to Adopted Version: The department made changes to WAC 388-400-0005, 388-408-0020, 388-405-0030, 388-454-0005, and 388-454-0010. The changes were made at the request of stakeholders to allow children who live with adults that are acting *in loco parentis* to receive TANF benefits. These changes were needed because the rules as proposed did not comply with RCW 74.12.330.

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 10, 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.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 10, 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 10, Repealed 1.



Effective Date of Rule: March 1, 2001.

January 22, 2001  
Bonita H. Jacques, Chief  
Office of Legal Affairs

AMENDATORY SECTION (Amending WSR 00-05-007, filed 2/4/00, effective 3/6/00)

**WAC 388-404-0005** How does a child's age and attendance in school affect their eligibility for TANF and SFA? (1) To be eligible for temporary assistance for needy families (TANF) or state family assistance (SFA), a child must be:

(a) Under age eighteen; or  
(b) Under age nineteen, and participating full-time in a secondary school program or the same level of vocational or technical training.

(i) "Participating" means the educational or training institution finds that the child:

(A) Meets the school's attendance requirements; and

(B) Is making acceptable progress in finishing the program.

(ii) "Full-time" attendance and course load requirements are defined by the educational or training institution. The educational or training institution sets the definition of "full-time" attendance and the number of classes a child must take.

(iii) A secondary education includes high school, a GED program, and state-approved home schools.

(2) If a child age eighteen or older has already met the requirements to finish the educational program, the child is no longer eligible for TANF or SFA.

(3) If the child does not qualify for assistance under subsection (1) of this section, they may qualify for SFA if the child is under age twenty-one and:

(a) Gets an education due to their disability as stated in RCW 28A.155.020; or

(b) Participates full-time in a secondary education program or an equal 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)~~

(4) If a child that gets SFA is age nineteen or over, they 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 388-408-0005** (Definition of assistance unit for) What is a cash assistance unit? (A cash assistance unit is a person or group of persons who live together and whose income, resources, and needs are considered as a unit for the purpose of determining eligibility and the amount of the cash assistance payment) (1) For all sections of this chapter:

(a) "We" means the department of social and health services.

(b) "You" means a person that is applying for or getting benefits from the department.

(c) "Assistance unit" or "AU" is the group of people who live together and whose income or resources we count to decide your eligibility for benefits and the amount of benefits you get.

(2) For GA-U, we decide who is in the AU under WAC 388-480-0010.

(3) For TANF or SFA, we decide who is in the AU by taking the following steps:

(a) We start with who must be in the AU under WAC 388-408-0015;

(b) We add those you choose to have in the AU under WAC 388-408-0025; and

(c) We remove those who are not allowed in the AU under WAC 388-408-0020.

AMENDATORY SECTION (Amending WSR 99-14-045, filed 6/30/99, effective 8/1/99)

**WAC 388-408-0010** Who is in my assistance unit for general assistance? (1) If you are an adult that is incapacitated as defined in WAC 388-448-0001, you can be in a GA-U (assistance unit includes:

(a) An incapacitated adult; or

(b) A married couple if both persons are incapacitated and living together.

(2) A GA-H assistance unit includes only the child or children eligible for GA-H (see WAC 388-400-0015) AU;

(2) If you are married and live with your spouse, we decide who to include in the AU based on who is incapacitated:

(a) If you are both incapacitated as defined in WAC 388-448-0001, we include both of you in the same AU.

(b) If only one spouse is incapacitated, we include only the incapacitated spouse in the AU. We count some of the income of the spouse that is not in the AU as income to the AU under WAC 388-450-0135.

AMENDATORY SECTION (Amending WSR 99-14-045, filed 6/30/99, effective 8/1/99)

**WAC 388-408-0015** Who must be in my assistance unit for temporary assistance for needy families (TANF) or state family assistance (SFA)? (The department must include in a TANF or SFA assistance unit certain persons who are living together, unless those person(s) must be excluded under WAC 388-408-0020 or are excluded at the option of the family under WAC 388-408-0025. An assistance unit for TANF or SFA benefits or combination of TANF and SFA benefits must include the following) If you live with any of the following people, we must include them in your TANF, SFA, or combination TANF/SFA AU:

(1) The child you are applying for (whom assistance is requested) and:

(a) The child's full, half or adoptive sibling(s);

(b) The child's natural or adoptive parent(s) or stepparent(s); and

(c) ~~((The parent(s) of)) If you are a pregnant ((or parent-ing)) minor or minor who ((claims to be in need and is providing the primary care for the)) is a parent and you live with your parent(s), we include your parent(s) if they:~~

- ~~(i) ((Pregnant minor;~~
- ~~(ii) Minor parent;~~
- ~~(iii) Minor parent's child; or~~
- ~~(iv) Full, half or adoptive sibling(s) of a pregnant or parenting minor)) Need assistance; and~~

~~(ii) Provide the primary care for you, your child, or your siblings. We count full, half, or adoptive siblings as your sibling.~~

~~(2) ((A pregnant woman if there is no TANF or SFA eligible child in the home)) If you are pregnant and you do not have a dependent child living with you, we include only you in the AU.~~

**AMENDATORY SECTION** (Amending WSR 00-05-007, filed 2/4/00, effective 3/6/00)

**WAC 388-408-0020** ~~((Who is excluded from))~~ **When am I not allowed to be in a TANF ((and)) or SFA assistance unit((s))?** Some people cannot be in an AU for TANF or SFA. This section describes who cannot be in your TANF or SFA AU and how this will affect your benefits.

(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~~
  - ~~(ii) Including you in the assistance unit would reduce the assistance unit's grant due to budgeting the adoption assistance income.~~

~~(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;~~

~~(c) An adult parent in a two parent household when:~~

- ~~(i) The other parent is unmarried and under the age of eighteen; and~~
- ~~(ii) The department determines the living arrangement is not appropriate under WAC 388-486-0005.~~

~~(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) We do not include the following people in your TANF or SFA AU:~~

~~(a) An adopted child if:~~

~~(i) The child gets federal, state, or local adoption assistance; and~~

~~(ii) Including the child in the AU and counting the adoption assistance income would reduce your AU's benefits.~~

~~(b) A minor parent or child who has been placed in Title IV-E, state, or locally-funded foster care unless the placement is a temporary absence under WAC 388-454-0015;~~

~~(c) An adult parent in a two-parent household when:~~

~~(i) The other parent is unmarried and under the age of eighteen; and~~

~~(ii) We decide that your living arrangement is not appropriate under WAC 388-486-0005.~~

~~(d) A court-ordered guardian, court-ordered custodian, or other adult acting *in loco parentis* (in the place of a parent) if they are not a relative of one of the children in the AU as defined under WAC 388-454-0010; or~~

~~(e) Someone who gets SSI benefits.~~

~~(2) If someone that lives with you cannot be in the AU:~~

~~(a) We do not count them as a member of the AU when we determine the AU's payment standard; and~~

~~(b) We do not count their income unless they are financially responsible for a member of the AU under WAC 388-450-0095 through 388-450-0130.~~

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-408-0025** ~~((Optional))~~ **When can I choose who is in my TANF ((and)) or SFA assistance unit ((members))?** ~~((Unless excluded under WAC 388-408-0020, the following persons, if otherwise eligible, may be included in a TANF or SFA assistance unit at the option of the caretaker relative:~~

~~(1) One nonparental caretaker relative as defined in WAC 388-454-0010 if a parent of a child in the assistance unit does not reside in the home;~~

~~(2) The step-siblings of a child included in the assistance unit;~~

~~(3) Children who are not siblings of a child included in the assistance unit;~~

~~(4) The siblings of a child receiving SSI;~~

~~(5) Any parent of a child receiving SSI;~~

~~(6) One nonparental relative of specified degree of a child receiving SSI if the child's parent or parents are not living in the home;~~

~~(7) One nonparental relative of specified degree of a child in the home receiving foster care; and~~

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(8) ~~For recipient assistance units, the child of unmarried parents when the child is living with both parents~~) If you are a child's caretaker relative (a relative who cares for the child's basic needs), use the table below to find who you may choose to include or exclude in your TANF or SFA AU. If you include a child in your AU, it could cause you to get more or less benefits. If someone is not allowed in the AU under WAC 388-408-0020, you cannot choose to include them in your TANF or SFA AU.

(1) <u>If you are the parent of the child, you may choose whether or not to include:</u>	(a) <u>Yourself in the AU if the child gets SSI; and</u> (b) <u>The child in the AU if:</u> (i) <u>You already receive TANF or SFA;</u> (ii) <u>You are not married to the child's other parent; and</u> (iii) <u>The child lives with both parents.</u>
(2) <u>If you are not the child's parent, and do not live with the parents of the child, you may choose to include either:</u>	(a) <u>Yourself if you are a relative defined in WAC 388-454-0010; or</u> (b) <u>Someone else that cares for the child and is a relative defined in WAC 388-454-0010.</u>
(3) <u>You may choose whether or not to include any of the following children:</u>	(a) <u>Brothers or sisters of a child who gets SSI;</u> (b) <u>Stepsisters and stepbrothers of a child; and</u> (c) <u>Other children that are not the child's brother or sister.</u>

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-408-0030** ~~((Consolidation of))~~ What children must be in the same TANF ((and)) or SFA assistance unit((s))? ~~(((1) All children included as mandatory or optional members and who live with the same caretaker relative or relative married couple must be included in a single assistance unit.~~

~~(2) Children do not have to be full, half, or adopted brothers or sisters to be included in the same assistance unit.~~

~~(3) When a change of circumstances occurs which makes one or more assistance unit members ineligible for cash assistance, assistance is continued for all assistance unit members who remain eligible))~~ A child who applies for or gets TANF or SFA must be in the same AU as other children who get TANF or SFA and live with the same:

- (1) Caretaker relative;
  - (2) Court-ordered guardian or court-ordered custodian;
- or
- (3) Adult acting in loco parentis.

**AMENDATORY SECTION** (Amending WSR 00-05-007, filed 2/4/00, effective 3/6/00)

**WAC 388-400-0005** Who is eligible for temporary assistance for needy families? (1) You can get temporary assistance for needy families (TANF), if you:

(a) Can be ~~((included))~~ in a TANF/SFA assistance unit as ~~((defined in))~~ allowed under WAC 388-408-0015 through 388-408-0030;

(b) Meet the citizenship/alien status requirements of WAC 388-424-0005;

(c) ~~((Reside))~~ Live in the state of Washington~~((or, if you are)),~~ A child((;)) must live with a caretaker relative, guardian, or custodian who meets the state residency requirements of WAC 388-468-0005;

~~((Are in financial need as specified under chapters 388-450, 388-470 and 388-488 WAC;~~

~~((Assign your rights to child support and cooperate in establishing paternity and collecting child support as required under WAC 388-422-0005 through 388-422-0030;~~

~~((Provide))~~ Do not live in a public institution unless specifically allowed under RCW 74.08.025;

~~((Meet TANF/SFA:~~

~~((Income requirements under chapter 388-450 WAC;~~

~~((Resource requirements under chapter 388-470 WAC;~~

and

~~((Transfer of property requirements under chapter 388-488 WAC.~~

~~((Assign your rights to child support as required under WAC 388-422-0005;~~

~~((Cooperate with the division of child support (DCS) as required under WAC 388-422-0010 by helping them:~~

~~((Prove who is the father of children applying for or getting TANF or SFA; and~~

~~((Collect child support.~~

~~((Tell us your Social Security number as required under WAC 388-476-0005;~~

~~((Cooperate in a review of your eligibility as required under WAC 388-434-0005;~~

~~((Cooperate in a quality assurance review as required under WAC 388-464-0001;~~

~~((Participate in the WorkFirst program as required under chapter 388-310 WAC; and~~

~~((Report changes of circumstances as required under WAC 388-418-0005((;~~

~~((Meet the requirements of WAC 388-462-0010, if you are pregnant; and~~

~~((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) If you are an adult and do not have a child living with you, you must be pregnant and meet the requirements of WAC 388-462-0010.

(3) If you are an unmarried pregnant teen or teen parent:

(a) Your living arrangements must meet the requirements of WAC 388-486-0005; and

(b) You must attend school as required under WAC 388-486-0010.

(4) 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, court-ordered guardian, court-ordered custodian, or other adult acting in loco parentis as required under WAC 388-454-0005; or

(c) If ((living)) the child lives with a parent((; that parent cannot have exhausted)) or other adult relative that provides care for the child, that adult cannot have used up their sixty-

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month lifetime limit of TANF or SFA cash benefits as defined in WAC 388-484-0005.

~~((3))~~ (5) You cannot get TANF if you have been:

(a) Convicted of certain felonies and other crimes ~~((as specified in))~~ under WAC 388-442-0010; ~~((and))~~ or

(b) Convicted of unlawful practices ~~((in obtaining))~~ to get public assistance ~~((as specified in))~~ under WAC 388-446-0005 ~~((and))~~ or 388-446-0010.

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-454-0005** ~~((Living in the home of a relative or guardian requirement for))~~ **Can I get TANF((?) or SFA ((and GA-H)) benefits for the child living with me?**

(1) ~~((To be eligible for))~~ You can get temporary assistance for needy families (TANF) or state family assistance (SFA) ~~((a child must live in the home of a parent or other relative as defined in WAC 388-454-0010))~~ for a child you live with if you are responsible for the care and control of the child and you are the child's:

(a) Parent or other relative as defined in WAC 388-454-0010;

(b) Court-ordered guardian or court-ordered custodian;

or  
(c) Other adult acting *in loco parentis* (in the place of a parent).

(2) ~~((To be eligible for GA-H, a child must be living in the home of a person who is:~~

(a) A court-appointed legal guardian or court-appointed custodian; and

(b) Not a relative as defined in the TANF program)) If a child lives with more than one relative or parent because the relatives share custody of the child:

(a) We include the child in the assistance unit (AU) of the parent or relative that the child lives with for the majority of the time; or

(b) If relatives share physical custody of the child in equal amounts, we include the child in the AU of the parent or relative that first applies for assistance for the child.

(3) ~~((A home is defined as a family setting that is being maintained or is in the process of being established. A family setting exists when the relative or guardian assumes and continues to be responsible for the day to day care and control of the child. A family setting exists when a family is living in temporary shelter or has no shelter.~~

~~(4) A child or caretaker temporarily absent from the home remains eligible for assistance under the conditions described in WAC 388-454-0015 and 388-454-0020))~~ If you or the child in your AU is temporarily absent from the home according to WAC 388-454-0015 and 388-454-0020, you can still get TANF or SFA during the absence.

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-454-0010** ~~((Definition of a parent or other relative for))~~ **Do I have to be related to a child in order to get TANF ((and)) or SFA((?) for the child?** ~~((To be eligible~~

for TANF or SFA, a child must be living with a person who meets the following definition of a parent or relative:

(1) A child's parent is the child's natural or adoptive parent or a step-parent who is legally obligated to support the child.

(2) ~~A man is considered to be))~~ To get TANF or SFA, a child must live with a parent, other relative, court-ordered guardian, court-ordered custodian, or other adult acting *in loco parentis*.

(1) We consider the following people as parents for TANF and SFA:

(a) The child's natural or adoptive parent; or

(b) A stepparent who is legally obligated to support the child.

(2) We consider a man as a child's natural father if the relationship is:

(a) ~~((Established))~~ Made under a judgment or order ~~((determining the parent and child relationship entered))~~ under RCW 26.26.130 that set the relationship between the parent and child; or

(b) Presumed under the Uniform Parentage Act (RCW 26.26.040).

(3) ~~((Nonparental relatives include))~~ When a child lives with a relative, the relative must be one of the following relationships to the child in order for that child to be eligible for TANF or SFA:

(a) The following blood relatives (including ~~((those))~~ relatives of half blood) or their spouses: siblings, first cousins (including first cousins once removed), nephews and nieces, and persons of ~~((preceding))~~ earlier generations (including aunts, uncles and grandparents) as ~~((denoted))~~ shown by the prefixes of great, great-great, or great-great-great;

(b) A natural parent whose parental rights ~~((have been))~~ were terminated by a court order;

(c) A stepparent ~~((whose obligation))~~ who no longer has to support the child ~~((has been terminated by the death of))~~ because:

(i) The child's natural or adoptive parent ~~((or the entry of a court order; and))~~ died; or

(ii) Divorce or dissolution ended the marriage between the stepparent and the child's natural or adoptive parent.

(d) A step sibling even ~~((though))~~ if the marriage ~~((of))~~ between the step sibling's parent ~~((to))~~ and the child's natural or adoptive parent ~~((is terminated))~~ ended by death, divorce or dissolution.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-400-0015

General assistance for children—Summary of eligibility requirements.

**WSR 01-03-128**  
**PERMANENT RULES**  
**DEPARTMENT OF LICENSING**

[Filed January 23, 2001, 11:01 a.m.]

Date of Adoption: January 23, 2001.

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

Citation of Existing Rules Affected by this Order: Amending WAC 308-93-010, 308-93-030, 308-93-050, 308-93-055, 308-93-056, 308-93-079, 308-93-090, and 308-93-160.

Statutory Authority for Adoption: RCW 88.02.070, 88.02.100.

Adopted under notice filed as WSR 00-23-073 on November 17, 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 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 8, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 8, 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 23, 2001

Fred Stephens

Director

AMENDATORY SECTION (Amending WSR 00-11-131, filed 5/23/00, effective 6/23/00)

**WAC 308-93-010 Definitions.** Unless the context clearly indicates otherwise, the following definitions apply to the rules in this chapter:

(1) "Bare boat" means a vessel rented without a crew.

(2) "Carpenter certificate" means a certificate issued by a manufacturer describing the vessel and certifying the first conveyance of the vessel after its manufacture.

(3) "Certificate of ownership" means the ownership document issued by the department or other issuing jurisdiction, sometimes referred to as a title.

(4) "Charter vessel" means a vessel rented with a crew.

~~((4))~~ (5) "Commercial fishing vessel" means a vessel primarily used for commercial or charter fishing.

~~((5))~~ "Cruising license" means an annual certificate issued by U.S. Customs Service under 19 C.F.R. Sec. 4.94, which exempts pleasure boats from certain countries from formal entry and clearance procedures, from payment of tonnage tax and clearance fees at all but the first port of entry. This term is interchangeable with U.S. Customs Cruising Permit and U.S. Customs Cruising License.

~~(6)~~ "Decal" means an emblem or tab displayed on a vessel as proof of annual registration.

~~(7))~~ (6) "Declaration of value form" means the department of licensing form used to declare the value for purposes of assessing excise tax when a vessel is acquired by lease, trade, gift, is homemade, or the most recent purchase price is not known to declare the value for purposes of assessing excise tax.

~~((8))~~ "Department" means the department of licensing.

~~(9))~~ (7) "Director" means the director of the department of licensing.

~~((10))~~ (8) "Display permit" means the document issued by the department, its agents or subagents, for display on the vessel for which it was issued under the authority of WAC 308-93-055 or 308-93-056.

(9) "Docking hull" means vessels that are powered by one or more personal watercrafts and are designed for use with personal watercraft and are designed for use with personal watercraft.

(10) "Documented vessel" means a vessel that is documented by the United States Coast Guard and is issued a valid marine certificate.

(11) "Exclusively" means solely and without exception.

(12) "Foreign vessel" means a vessel registered in accordance with the laws of another (~~jurisdiction~~) state.

(13) "Houseboat" means any vessel as defined in RCW 88.02.010(1). For registration and certificate of ownership purposes, a houseboat does not include any building on a float used in whole or in part for human habitation as a single-family dwelling which is not powered by self propulsion by mechanical means or wind.

(14) "Identification documents" means the registration receipt and display permit issued under the authority of WAC 308-93-055 or 308-93-056.

~~(15)~~ ("Indian reservation" means all lands, notwithstanding the issuance of any patent, within the exterior boundaries set aside by the United States for the use and occupancy of Indian tribes by treaty, law or executive order and which are areas currently recognized as "Indian reservations" by the United States Department of the Interior.

~~(16)~~ "Indian tribe" means an Indian nation, tribe, band, or community recognized as an "Indian tribe" by the United States Department of the Interior.

~~(17)~~ "Indian" means a person on the tribal rolls of the Indian tribe occupying an Indian reservation.

~~(18)~~ "Issuing authority" means a state that has a vessel numbering system approved by the Coast Guard. (Also see definition for out of country vessel.)

~~(19)~~ "Joint tenancy with rights of survivorship" means owners who own a vessel in joint tenancy with the right to own individually if one of them dies.

~~(20))~~ "Issuing authority" means a state that has a numbering system approved by the Coast Guard or by the Coast Guard where a number system has not been approved. (Also see definition for out of country vessel.)

(16) "Legal owner/secured party" means a person or business, or institution having a security interest in a vessel perfected in accordance with RCW 88.02.070 (~~or the registered owner of a vessel unencumbered by a security interest~~

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or the lessor of a vessel unencumbered by a security interest)).

~~((21))~~ (17) "Lifeboat" means watercraft used exclusively for lifesaving purposes.

~~((22))~~ (18) "Manufacturer's certificate of origin" (MCO) or "Manufacturer's statement of origin" (MSO) means a certificate issued by a manufacturer describing the vessel and certifying the first conveyance of the vessel after manufacture.

~~((23))~~ (19) "Out of country vessel" means a vessel registered or numbered by the laws of another country or has a valid United States Customs Service Cruising License.

~~((24))~~ (20) "Overall length" means a straight-line measurement ~~((from the tip of the bow to the stern of the vessel down the centerline but not including boomkins, swim ladders, outboard engines, or other extremities))~~ of the overall distance from the foremost point of the vessel to the aftermost part of the vessel, measured parallel to the centerline. Bow-sprits, bumpkins or boomkins, rudders, outboard motor brackets, outdrive units, propellers, and similar fittings or attachments are not included in the measurement.

~~((25))~~ (21) "Paperless title" means electronic ownership record.

~~((26))~~ (22) "Person" includes every natural person, firm, copartnership, corporation, association or organization.

~~((27))~~ "Previous ownership document" means the last issued certificate of ownership.

~~(28))~~ (23) "Personal watercraft" for the purpose of this rule has the same meaning as in RCW 79A.60.010, such as jet ski or wet bike.

(24) "Primarily" means the principal purpose for which a vessel is used when considered in conjunction with all of its uses.

~~((29))~~ "Principle" ~~((25))~~ "Principal use" means ~~((the jurisdiction where the))~~ when a vessel is ((located the majority of the year)) used on waters of this state for one hundred eighty-three days or more.

~~((30))~~ (26) "Propulsion machinery" means any device providing motion to a vessel through such means as combustion, steam, or electric machinery.

~~((31))~~ "Registered owner," and "owner," are synonymous terms used interchangeably, meaning a person who has a lawful right to possession of a vessel, whether or not the vessel is subject to a security interest.

(32) "Registration numbers" are numbers configured in accordance with 33 C.F.R. 174.23 and:

- (a) Uniquely identify the vessel;
- (b) Are assigned by the department when you apply for initial registration or were previously assigned WN numbers by the Coast Guard; and
- (c) Are printed on your registration and ownership certificates.

~~((33))~~ (27) "Release of interest" ~~((is a notarized or certified document releasing interest in a vessel or the original certificate of ownership signed by the registered and/or legal owner as listed on the certificate of ownership))~~ means the act of signing over any ownership in a vessel. A notarized or certified release of interest is also a document relinquishing interest in a vessel.

~~((34))~~ (28) "Renewal notice" and "special mailer" means the notice to renew a vessel registration mailed by the department to the owner.

~~((35))~~ (29) "Tender" means watercraft ~~((that is))~~ used ~~((to provide direct transportation between that vessel and the shore and for no other purpose used))~~ exclusively to furnish transportation from a larger vessel to shore and return.

~~((36))~~ (30) "Time share charters" means leased vessels where none of the parties leasing the vessel under a "time share" option agreement is acquiring an equity in the vessel and there is no option to buy.

~~((37))~~ (31) "United States Customs Service Cruising License" means an annual certificate issued by U.S. Customs Service under 19 C.F.R. Sec. 4.94, which exempts pleasure boats from certain countries from formal entry and clearance procedures, from payment of tonnage tax and clearance fees at all but the first port of entry.

~~((38))~~ (32) "Use of waters" means to navigate, operate, employ, or moor any vessel upon the waters.

~~((39))~~ "Unsolicited business contact" for purposes of public disclosure means any person or business requesting owner information with the intent of using that information to promote the sale of any goods or services.

~~(40))~~ (33) "Valid marine document" means a document issued by the Coast Guard which declares it to be a United States documented vessel.

~~((41))~~ (34) "Vessel data form" means the form, approved by the department, completed by the applicant describing the vessel.

(35) "Waters of this state" means any waters within the territorial limits of this state.

~~((42))~~ "Vessel registration number" is a Washington registration number issued to vessels, just as a license plate with unique letter number combinations is issued to vehicles.))

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

**WAC 308-93-030 Vessels subject to excise tax, registration and titling. What vessels are subject to excise tax, registration and titling?** Unless specifically ~~((exempted))~~ exempt under chapters 88.02 and 82.49 RCW, all vessels sixteen feet or longer equipped with propulsion machinery or sails, are subject to excise tax, registration and titling, including the following:

- (1) Amphibious vessels (vehicles);
- (2) Docking hulls;
- (3) Houseboats;
- ~~((3))~~ (4) Inflatable vessels with motors;
- ~~((4))~~ (5) Personal watercraft (jet ski, wet bike, etc.);
- ~~((5))~~ (6) Racing vessels.

**AMENDATORY SECTION** (Amending WSR 98-16-029, filed 7/29/98, effective 7/30/98)

**WAC 308-93-050 Vessels exempted from registration, excise tax and titling. What vessels are exempt from registration, titling, and the assessment of excise tax?** The

following vessels are exempt from registration, titling, and the assessment of excise tax:

(1) Vessels exempt from registration under RCW 88.02.030(;

(2) ~~Vessels primarily engaged in commerce which have or are required to have a valid marine document as a vessel of the United States~~), including but not limited to:

(a) Commercial fishing vessels;

(b) Barges as defined in CFR 46;

(c) Documented charter vessels, including, bare boat and time share charters;

~~((3))~~ (2) Vessels owned by Indian tribes and tribal members as provided in WAC 308-93-700 through 308-93-770.

**AMENDATORY SECTION** (Amending WSR 98-16-029, filed 7/29/98, effective 7/30/98)

**WAC 308-93-055 Foreign vessels operating in this state—Identification document required.** (1) ~~((Beginning January 1, 1998, the owner of a foreign vessel having been issued a valid number under federal law or by an approved issuing authority of the state of principal operation, whose vessel is remaining in this state for personal use or enjoyment for more than sixty days of use shall:~~

(a) Obtain a two-month identification document issued by the department, its agents or subagents on or by the sixty-first day. The second identification document shall be purchased on or by the one hundred twenty-first day of use in this state;

(b) Indicate when the vessel first came into the state;

(c) Pay a nonrefundable fee of twenty-five dollars plus a filing fee and subagent fee, if applicable, per identification document;

(d) Provide proof of nonresidency by showing the vessel owner's out-of-state driver's license or out-of-state photo identification;

(e) Provide proof of current foreign vessel registration or current United States Coast Guard certificate of documentation;

(f) Not use more than two identification documents in any continuous twelve-month period. The twelve months begins on the date the vessel first entered this state;

(g) Keep the identification document placard and temporary registration on the vessel while on the waters of this state;

(h) Display the identification document placard in a location that is visible at all times from outside the vessel. The placard shall be protected from weathering.

(2) ~~If the vessel owner is not available, the person applying for the vessel identification document shall have a notarized/certified power of attorney from a registered owner of the vessel and a copy of the vessel owner's out-of-state driver's license or photo identification.)~~ **What documentation must be carried aboard a foreign vessel when being operated upon the waters of this state?** The current foreign vessel registration is valid for the first sixty days of operation. In addition the following must apply:

(a) The foreign vessel must have been issued a valid number under federal law or by an approved issuing authority of the state of principal operation, if the vessel is remaining in this state for personal use or enjoyment.

(b) On or before the sixty-first day of use, the foreign vessel owner must obtain a vessel sixty-day temporary identification document issued by the department, its agents or subagents.

(c) A second vessel sixty-day temporary identification document must be purchased on or before the one hundred twenty-first day of use in this state.

**(2) What must I provide to obtain a vessel sixty-day temporary identification document?** You must provide the following:

(a) Proof of nonresidency by showing the vessel owner's out-of-state driver's license or out-of-state photo identification;

(b) A copy of the current foreign vessel registration or current United States Coast Guard certificate of documentation;

(c) Date the vessel first came into the state;

(d) A nonrefundable fee of twenty-five dollars plus a filing fee and subagent fee, if applicable, per vessel sixty-day temporary identification document.

**(3) How many vessel sixty-day temporary identification documents may be obtained?** Not more than two vessel sixty-day temporary identification documents may be obtained in any continuous twelve-month period for any single vessel. The twelve months begins on the date the vessel first entered this state.

**(4) How do I display the vessel sixty-day temporary identification document?** The vessel sixty-day temporary identification document must be:

(a) Kept aboard the vessel at all times when moored and during operation;

(b) Displayed in the windshield, side window, cockpit or operation area of the vessel, so that it is visible to law enforcement from either the dock or from the water;

(c) Protected from the weather.

**(5) If the vessel owner is not available, how do I obtain a vessel sixty-day temporary identification document?** If the vessel owner is not available, the person applying for the vessel sixty-day temporary identification document must have a:

(a) Notarized/certified power of attorney from a registered owner of the vessel;

(b) Copy of the vessel owner's out-of-state driver's license or photo identification; and

(c) Copy of the foreign vessel registration certificate.

**AMENDATORY SECTION** (Amending WSR 98-16-029, filed 7/29/98, effective 7/30/98)

**WAC 308-93-056 Out of country vessel(s) operating in this state—Identification document required.** (1) ~~((Beginning March 27, 1998, the owner of an out-of-country vessel having been issued a valid number or registration by a country other than the United States or a United States Customs Cruising License, whose vessel is remaining in this state~~

for personal use or enjoyment for more than sixty days of use shall:

(a) Obtain a permanent identification document issued by the department, its agents or subagents on or by the sixty-first day;

(b) Indicate when the vessel first came into the state;

(c) Pay a nonrefundable fee of twenty-five dollars plus a filing fee and subagent fee, if applicable;

(d) Provide proof the out of country vessel is currently registered or numbered, or a valid United States Customs Cruising License. Such proof may be, but is not limited to, the valid numbers or registration issued by a country other than the United States or a United States Custom Service Cruising License;

(e) Keep the identification document placard and registration on the vessel while on the waters of this state;

(f) Display the identification document placard in a location that is visible at all times from outside the vessel. The placard shall be protected from weathering.

(2) If the vessel owner is not available, person(s) applying for the vessel identification document shall have a notarized/certified power of attorney from a registered owner of the vessel and a copy of the valid numbers or registration issued by a country other than the United States or a United States Custom Service Cruising License.

(3) The identification document is valid as long as the vessel continues to be registered in a country other than the United States or has a United States Custom Service Cruising License. New owners may apply for a corrected vessel out of country registration listing the new owner's name and address. The new owner shall pay a nonrefundable fee of three dollars plus a filing fee and subagent fee, if applicable.)

**What documentation must be carried aboard an out of country vessel when being operated upon the waters of this state?**

(a) The current out of country vessel registration or a United States Customs Service Cruising License is valid for the first sixty days of operation when the vessel is remaining in this state for personal use or enjoyment.

(b) The foreign vessel must have been issued a valid number or registration issued by a country other than the United States or a United States Customs Service Cruising License

(c) On or before the sixty-first day of use, the out of country vessel owner must obtain a vessel out of country permanent identification document issued by the department, its agents or subagents.

**(2) What must I provide to obtain a vessel out of country permanent identification document? You must provide the following:**

(a) Proof of identification as described in WAC 308-56A-275(2):

(b) A copy of the current foreign vessel registration or current United States Coast Guard certificate of documentation;

(c) Date the vessel first came into the state;

(d) A nonrefundable fee of twenty-five dollars plus a filing fee and subagent fee, if applicable.

**(3) How many vessel out of country permanent identification documents may be obtained? One, the vessel out of country permanent identification document is valid as long as the vessel continues to be registered in a country other than the United States or has a United States Customs Service Cruising License. New owners may apply for a corrected vessel out of country permanent identification document listing the new owner's name and address. The new owner shall pay a nonrefundable fee of three dollars plus a filing fee and subagent fee, if applicable.**

**(4) How do I display the vessel out of country permanent identification document? The vessel out of country permanent identification document must be:**

(a) Kept aboard the vessel at all times when moored and during operation;

(b) Displayed in the windshield, side window, cockpit or operation area of the vessel, so that it is visible to law enforcement from either the dock or from the water;

(c) Protected from the weather.

**(5) If the vessel owner is not available, how do I obtain a vessel out of country permanent identification document? If the vessel owner is not available, the person applying for the vessel out of country permanent identification document must have a:**

(a) Notarized/certified power of attorney from a registered owner of the vessel;

(b) Copy of the valid registration numbers issued by a country other than the United States or a United States Customs Service Cruising License.

**AMENDATORY SECTION** (Amending WSR 00-01-027, filed 12/6/99, effective 1/6/00)

**WAC 308-93-079 Government exempt vessels.** (1) **If a government agency chooses to display registration numbers and current vessel decals in addition to being clearly identifiable as a government vessel, what fees are required?** Government agencies are required to pay filing and registration fees but are not subject to excise tax. ((Excise tax is not required:))

(2) **If the department issues a Washington registration number and current decals, is the government agency required to display them?** Yes, if a registration number and decals are issued, they must be displayed as prescribed in WAC 308-93-140.

**AMENDATORY SECTION** (Amending WSR 00-01-027, filed 12/6/99, effective 1/6/00)

**WAC 308-93-090 ((Rented)) Leased or ((leased)) rented vessels.** (1) **((How does the department differentiate)) What is the difference between ((rented)) leased and ((leased)) rented vessels?** For the purposes of this section a vessel is considered leased if the lease agreement is for a period of one year or more or there is an option to purchase. A vessel is considered rented if the rental agreement is for a period of less than one year and there is no option to purchase in the rental agreement.



(2) **When must ~~((rented or leased))~~ leased or rented vessels, used on Washington waters, be titled and registered or required to obtain an identification document?** A ~~((rented or leased))~~ leased or rented vessel, used on Washington waters, must be titled and registered or have an identification document under the following circumstances. If the vessel is:

(a) Registered out of country and ~~((rented or leased))~~ leased or rented, and used upon Washington waters, the owner of the vessel must purchase a permanent identification document from the department, issued to the vessel, on or before the sixty-first day of use as provided in RCW 88.02.030(3). If the vessel owner is not available, the person(s) applying for the identification document shall have notarized/certified power of attorney from a registered owner of the vessel authorizing him/her to purchase the permanent identification document and a copy of the valid registration issued by a country other than the United States or a United States Customs Service Cruising License.

(b) Registered in a foreign jurisdiction and ~~((rented or leased))~~ leased or rented by a nonresident individual, and used upon Washington waters, the owner ~~((shall))~~ must purchase a Vessel ~~((60))~~ Sixty Day Temporary Identification Document on or before the sixty-first day of use as provided in RCW 88.02.030(11). Not more than two identification documents ~~((shall))~~ may be purchased in any twelve continuous months. If the vessel owner is not available, the person(s) applying for the identification document ~~((shall))~~ must have notarized/certified power of attorney from a registered owner of the vessel authorizing him/her to purchase the identification document. If the vessel is used upon Washington waters for more than one hundred and eighty days, it ~~((shall))~~ must be titled and registered in this state or removed from the waters of this state.

(c) Registered in a foreign jurisdiction and ~~((rented or leased))~~ leased or rented by a Washington resident, and used upon Washington waters, the following apply:

(i) If the vessel is leased for one year or more or there is an option to buy on either the rental or lease agreement, the Washington resident must register the vessel in his or her name on or before the sixty-first day of use upon Washington waters.

(ii) If the vessel is rented for less than one year, it must be registered in the name of the owner, (not the operator) on or before the sixty-first day of use upon Washington waters. Any ~~((secure))~~ secured party is shown as the legal owner on the certificate of ownership.

(3) **Whose name must be shown on the application for certificate of ownership and registration when the vessel is rented?** Rented vessels are titled and registered in the name of the owner, not the operator. Any secured party is shown as legal owner on the certificate of ownership.

(4) **What documents must a Washington resident carry with them when they ~~((rent or lease))~~ lease or rent a Washington registered vessel and operate the vessel on Washington waters?**

(a) When the vessel is less than twenty-six feet in length and ~~((rented or leased))~~ leased or rented for less than seven

days, the following documents ~~((are required to))~~ must be carried on the vessel:

(i) A copy of the lease or rental agreement signed by the owner or his authorized representative and by the person leasing or renting the vessel which ~~((shall))~~ must contain ~~((at least))~~ the vessel registration number, the period of time for which the vessel is leased or rented and the hull identification number; and

(ii) A copy of the current registration certificate.

(b) When the vessel is less than twenty-six feet in length and ~~((rented or leased))~~ leased or rented for seven days or more, the following documents ~~((are required to))~~ must be carried on the vessel:

(i) A copy of the lease or rental agreement signed by the owner or his authorized representative and by the person leasing or renting the vessel which ~~((shall))~~ must contain ~~((at least))~~ the vessel registration number, the period of time for which the vessel is leased or rented and the hull identification number; and

(ii) The original current registration certificate.

(c) When the vessel is twenty-six feet or more and is ~~((rented or leased))~~ leased or rented, the following documents are required to be carried on the vessel:

(i) A copy of the lease or rental agreement signed by the owner or his authorized representative and by the person leasing or renting the vessel which shall contain at least the vessel registration number, the period of time for which the vessel is leased or rented and the hull identification number; and

(ii) The original current registration certificate.

(5) ~~((Do I))~~ **Does a vessel owner need to surrender ((my)) an out-of-state certificate of ownership to the department when ((I)) they register ((my)) a leased vessel in Washington? Depending on the following situations:**

(a) If there is a secured party on the out-of-state certificate of ownership and ~~((shows))~~ lessee and lessor designations are shown as required by Washington state law or rule, the certificate of ownership need not be surrendered. Only a certificate of registration will be issued((, however,); a Washington certificate of ownership will not.

(b) If the out-of-state certificate of ownership does not show a secured party or is not in name agreement or does not show lessee and lessor designations as required by Washington law or rule, the out-of-state certificate of ownership shall be surrendered and a Washington certificate of ownership will be issued to the lessor/legal owner.

**AMENDATORY SECTION** (Amending WSR 00-01-027, filed 12/6/99, effective 1/6/00)

**WAC 308-93-160 Excise tax exemptions—Indians.**

(1) **What definitions does the department apply to this section?** For purposes of this rule, the following words and terms have the following meanings:

(a) "Indian ~~((reservation))~~ country" means all lands, notwithstanding the issuance of any patent, within the exterior boundaries set aside by the United States for the use and occupancy of Indian tribes by treaty, law or executive order and which are areas currently recognized as "Indian ~~((reser-~~

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vations)) country" by the United States Department of the Interior as referenced in 18 USC 1151 and CFR 25.

(b) "Indian tribe" means an Indian nation, tribe, band, or community recognized as an "Indian tribe" by the United States Department of the Interior.

(c) "Indian" means a person on the tribal rolls of the Indian tribe occupying an Indian reservation.

(2) **What Indian ((reservations)) tribes in Washington are recognized by the United States Department of the Interior?** The ((following are the)) only Washington "Indian ((reservations)) tribes" are those currently recognized as such by the United States Department of the Interior ((Chelalis Confederated tribes, Colville Confederated tribes, Hoh, Jamestown S'Klallam, Kalispel, Lower Elwha Klallam, Lummi, Makah, Muckleshoot, Nisqually, Nooksack, Port Gambles S'Klallam, Puyallup, Quileute, Quinault, Samish, Sauk-Suiattle, Shoalwater Bay, Skokomish, Spokane, Squaxin, Stillaguamish, Suquamish, Swinomish, Tulalip, Upper Skagit and Yakama)). As of the effective date of this rule there are twenty-eight federally recognized Indian tribes in the state of Washington. You may contact the governor's office of Indian affairs for an up-to-date list of federally recognized Indian tribes in the state of Washington at its website, [www.goia.wa.gov](http://www.goia.wa.gov) or at:

Governor's Office of Indian Affairs

531 15th Ave. S.E.

P.O. Box 40909

Olympia, WA 98504-0909

(360) 753-2411

(3) **How does an Indian qualify for a vessel excise tax exemption?** To qualify for a vessel excise tax exemption, an Indian ((shall)) **must**:

(a) Be enrolled as a tribal member of a recognized Washington tribe;

(b) Have their principal residence within the boundaries of the Indian reservation of the tribe of which they are a member; and

(c) Be a registered owner of the vessel for which the exemption is requested; or

(d) Be the owner of a vessel used in the exercise of treaty fishing rights as defined in the Consent Decree, dated November 28, 1994, entered in *United States v. Washington*, Civ. No. 9213 - Phase I - Sub. 88-1 and signed by the United States, the signatory tribes and the state of Washington.

(4) **Are vessels owned by or leased to a governing body of an Indian tribe subject to vessel excise tax?** No. Vessels owned by or leased to a governing body of an Indian tribe are not subject to vessel excise tax. Tribal treaty fishing vessels are exempt from excise tax and registration as described in WAC 308-93-700 through 308-93-770.

(5) **What documentation does the department require from a tribal member to qualify for a vessel excise tax exemption?**

(a) The department requires a properly completed affidavit of exemption on a form supplied or approved by the department. An affidavit for each vessel must be submitted at the time the exemption is established and at the time of renewal if there is a change of address. The department may

require such other proof of qualification for exemption as it deems necessary.

(b) If the vessel is used in the exercise of treaty fishing rights, as defined in the Consent Decree dated November 28, 1994, entered in *United States v. Washington*, Civ. No. 9213 - Phase I - Sub. 88-1 and signed by the United States, the signatory tribes and the state of Washington, the registered owner must provide proof that the vessel is registered under the provisions of WAC 308-93-700 through 308-93-770.

(6) **What information must be contained within the affidavit of exemption described in subsection (5)(a) of this section?** At the minimum, the affidavit of exemption must include the following:

(a) Description of the vessel including the year and make and either the Washington registration number or the hull identification number;

(b) The registered owner's name, tribe, reservation and enrollment or Bureau of Indian Affairs number;

(c) The principal address of the registered owner as will be shown on the vessel registration certificate;

(d) Signature of the registered owner;

(e) A certification of an authorized tribal authority representing the Indian reservation of the tribe of which the registered owner is a member. The position or title of the tribal authority, their telephone number and their signature must appear on the certification. The certification must include a statement that the registered owner is an enrolled tribal member and that the address provided by the registered owner is within the boundaries of their reservation((;

~~(f) The position or title of the tribal authority, their telephone number and their signature)).~~

## WSR 01-03-129

### PERMANENT RULES

### DEPARTMENT OF LICENSING

[Filed January 23, 2001, 11:58 a.m.]

Date of Adoption: January 12, 2001.

Purpose: The purpose of this hearing is to amend WAC 308-08-085 (2)(a) Request for adjudicative proceedings, making it consistent with the Office of Administrative Hearing's (OAH) model rules procedures under WAC 10-08-110 (2) and (3). Under OAH WAC 10-08-110 (2) and (3), service by mail is regarded complete upon deposit in the United States mail. However, under the Department of Licensing (DOL) WAC 308-08-085 (2)(a), gives a respondent twenty calendar days from receipt of a written notice. DOL is amending WAC 308-08-085 to bring it in agreement with OAH rules to avoid any conflict between the two WACs -

Citation of Existing Rules Affected by this Order: Amending WAC 308-08-085.

Statutory Authority for Adoption: RCW 34.05.416 and 34.05.419.

Adopted under notice filed as WSR 00-23-071 on November 17, 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 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 12, 2001

Alan E. Rathbun  
Assistant Director

**AMENDATORY SECTION** (Amending WSR 90-21-086, filed 10/17/90, effective 11/17/90)

**WAC 308-08-085 Requests for adjudicative proceedings.** (1) All applications requesting that the department of licensing conduct an adjudicative proceeding, including but not limited to requests for a hearing in a proceeding initiated by the department shall be made on the applicable form for such requests provided by the department or on a form which is substantially similar.

(2) Applications to the department for an adjudicative proceeding shall be made within the following time limitations:

(a) Within twenty calendar days of ~~((receipt by))~~ service, as defined in WAC 10-08-110 (2) and (3), the applicant of a written notice of an opportunity to request a hearing upon agency action, or contemplated agency action; or

(b) Within twenty calendar days from notice to the applicant from any source of administrative action by the department which the applicant believes has or will adversely affect the applicant.

(3) Failure of an applicant to file an application for an adjudicative proceeding within the time limits set forth in subsections (2)(a) or (2)(b) above, constitutes a default and results in the loss of the applicant's right to an adjudicative proceeding, and the department may proceed to resolve the case pursuant to RCW 34.05.440(1).

(4) The department shall not grant any request for an adjudicative proceeding to an applicant who does, or will, not have standing to request judicial review of the agency actions, or contemplated agency actions, pursuant to RCW 34.05.530.

(5) The department shall process applications for adjudicative proceedings as provided in RCW 34.05.416 and RCW 34.05.419.

**WSR 01-03-141**  
**PERMANENT RULES**  
**DEPARTMENT OF LICENSING**  
[Filed January 24, 2001, 8:21 a.m.]

Date of Adoption: January 24, 2001.

Purpose: To clarify the meaning of equitable ownership, removing the words "or hulks" from language and to remove the use of barbed wire in the segregated storage area of a wrecking yard.

Citation of Existing Rules Affected by this Order: Chapter 308-63 WAC, amending WAC 308-63-010, 308-63-040, 308-63-070, and 308-63-100.

Statutory Authority for Adoption: RCW 46.80.140.

Adopted under notice filed as WSR 00-24-006 on November 27, 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 4, 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 4, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 24, 2001

Fred Stephens  
Director

**AMENDATORY SECTION** (Amending WSR 93-08-076, filed 4/6/93, effective 5/7/93)

**WAC 308-63-010 Definitions—General.** (1) Department - means the department of licensing of the state of Washington.

(2) Director - means the director of the department of licensing.

(3) Destroy - means the dismantling, disassembling or wrecking of a vehicle with the intent of never again operating such as a vehicle, or the sustaining of damage to a vehicle either (a) to the extent that the cost of repairing it exceeds its fair market value immediately prior to the accident or occurrence, or (b) to the extent that the cost of repairing it plus its salvage value in its damaged condition exceeds or approximately equals the market value of the vehicle in its repaired or restored condition.

(4) Acquire - shall be construed to mean physical custody together with proof of ownership as provided under WAC 308-63-080.

(5) Custody - means the possession of a vehicle ~~((in which there is equitable ownership))~~ that the wrecker owns but for which ownership documents required in WAC 308-

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63-080 have not been received, or a vehicle placed for safe-keeping by a law enforcement officer or others.

(6) Obscure - means to screen the wrecker activity from public view.

**AMENDATORY SECTION** (Amending WSR 00-13-019, filed 6/12/00, effective 7/13/00)

**WAC 308-63-040 Wreckers—Application for license. How must I apply for a vehicle wrecker license?**

An original or renewal application for a wrecker license shall be filed with the director on the form provided for this purpose. The application must be endorsed by the chief of police of any city with a population over five thousand; otherwise, by a member of the Washington state patrol. The endorsement certifies that the wrecker has an established place of business at the address shown on the application and that the applicant's vehicle(s) are properly identified in accordance with WAC 308-63-070(5).

Each application shall specify the number of vehicles owned, leased, rented or otherwise operated by the applicant for towing or transportation of vehicles ((or hulks)) in the conduct of the business. Each endorsement shall identify the vehicle by make, model, year or other adequate description, and identification number.

**AMENDATORY SECTION** (Amending WSR 00-13-019, filed 6/12/00, effective 7/13/00)

**WAC 308-63-070 Wreckers—General procedures and requirements.** Vehicle wreckers shall comply with all rules and regulations relative to the handling of vehicle parts or vehicles to be dismantled.

(1) Enclosure. The activities of a vehicle wrecker shall be conducted entirely within the established place of business. A physical barrier shall designate the boundary of the wrecking yard. Where necessary to obscure public view of the premises, it shall be enclosed by a sight-obscuring wall or fence at least eight feet high.

(a) Where required, such sight-obscuring wall or fence shall be painted or stained in a neutral shade to blend with the surrounding premises. If the fence is made of chain link, it must have sufficient slats or other construction to obscure public view of the premises.

(b) A living hedge of equal height and sufficient density to prevent view of the premises may be substituted for the wall or fence.

(c) All enclosures and barriers shall be kept in good repair.

(d) Reasonable consideration shall be given to the topography of the land by enforcement personnel when inspecting premises for such fence, enclosure or barrier.

(e) Exceptions to this section must be granted in writing by the department.

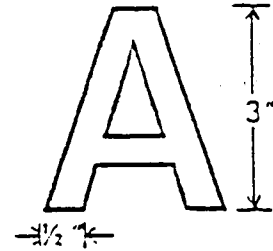
(2) Additional places of business. Each licensed wrecker may maintain one or more additional places of business within the same county, under the same permit. The wrecker may maintain as many storage yards or sales outlets as needed so long as each is registered with the department. Each wrecking or storage yard shall comply with local zon-

ing regulations and with such other requirements as the department may provide, particularly those in subsection (1) of this section. Duplicate wrecker's licenses will be issued to be posted at each additional place of business.

(3) Change of address. The department shall be notified immediately of any change of address of any business location or of the addition of any such location.

(4) Display of license certificate. The license certificate of a licensed wrecker shall be displayed conspicuously at each business address(es) and shall be available for periodic inspection by law enforcement officers and authorized representatives of the department.

(5) Identification of licensee's vehicles. All vehicles equipped for lifting or transporting vehicles ((or hulks)) which are operated on the highways of this state shall display the licensee's name, the city in which the licensee's established place of business is located, and the current business telephone number of the licensee. Such information shall be painted on or permanently affixed to both sides of the vehicle. Each letter and numeral shall be made with at least a half-inch in solid width and shall be at least three inches high. See example.



(6) License plates from vehicles entered into the wrecking yard shall be removed within twenty-four hours. Plates on vehicles in the segregated area may be left on until the vehicle is entered into the wrecking yard. The wrecker shall destroy such plates prior to submitting the monthly report for the month the vehicle was entered into the wrecking yard.

(7) Major component parts. Under RCW 46.80.010(3) the term "engines, short blocks, transmissions and drive axles" shall not include cores or parts which are limited to value as scrap metal or for remanufacturing only. The term "seat" shall be interpreted to mean bucket seat. The term "drive axle" means a differential assembly.

(8) Vehicles in custody and awaiting approved ownership documents, as provided under WAC 308-63-080, must be placed in a segregated storage area within the wrecking yard which must be designated by a physical barrier. Vehicles may remain in this area after ownership documents have arrived and the vehicle has been properly entered into the wrecking yard inventory. There will be no dismantling or parts removal in this area. The physical barrier may be portable, made of substantial posts and connected by a chain, cable, ((barbed wire,)) or of other equally strong construction.

This area can be used for storage of dealer cars or equipment if the wrecker is both a wrecker and a dealer however, there will be no storage of vehicle parts.

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**AMENDATORY SECTION** (Amending WSR 00-13-019, filed 6/12/00, effective 7/13/00)

**WAC 308-63-100 Wreckers—Must furnish bill of sale for parts. What document must I use to sell a vehicle part?** No wrecker may sell a motor vehicle part unless he/she gives the purchaser a bill of sale for such part. Whenever the wrecker sells a motor, frame, or other major component part, except for a core part, the bill of sale must describe the part fully, giving make, model, year, and vehicle identification number or yard number of the vehicle from which the part was taken.

No wrecker may sell vehicles (~~(or hulks)~~) to a scrap processor or to a hulk hauler for transportation to a scrap processor without giving the scrap processor or the hulk hauler an invoice or bill of sale listing each vehicle (~~(or hulk)~~) by yard number. The wrecker shall retain a copy of such invoices for inspection purposes.

**WSR 01-03-151**  
**PERMANENT RULES**  
**STATE BOARD OF EDUCATION**

[Filed January 24, 2001, 10:16 a.m.]

Date of Adoption: January 12, 2001.

Purpose: This was an editorial amendment needed for clarification.

Citation of Existing Rules Affected by this Order: Amending WAC 180-78A-209.

Statutory Authority for Adoption: RCW 28A.305.130 (1) and (2).

Adopted under notice filed as WSR 00-24-122 on December 6, 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 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 22, 2001

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 00-09-046, filed 4/14/00, effective 5/15/00)

**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. All, but one, will be appointed by the president of the Washington Education Association. One of these teachers shall be employed in a private school and appointed by the Washington Federation of Independent Schools.

(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)~~) One-half or more of the voting members shall be administrators. One-half of these administrators (at least one-fourth of the total voting membership) shall be appointed by the president of the Washington Association of School Administrators. All(~~(-)~~) but one(~~(-with)~~) of the remaining administrators shall be appointed by the president of the Association of Washington School Principals. (~~(One of)~~) The (~~(building)~~) remaining administrator(~~(s)~~) shall be employed in an approved private school and appointed by the Washington Federation of Independent Schools. (~~(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.

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(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 01-03-152**

**PERMANENT RULES**

**STATE BOARD OF EDUCATION**

[Filed January 24, 2001, 10:20 a.m.]

Date of Adoption: January 12, 2001.

Purpose: The amendments clarified to whom rules regarding continuing principals' certificates that became effective August 31, 1998, apply.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79A-211.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 00-24-129 on December 6, 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 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 22, 2001

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 99-23-023, filed 11/9/99, effective 12/10/99)

**WAC 180-79A-211 Academic and experience requirements for certification—Administrators.** Candidates for the respective administrative certificate shall complete the following requirements in addition to those set forth in WAC 180-79A-150 and 180-79A-213.

(1) Superintendent.

(a) Initial.

(i) The candidate shall hold an approved master's degree and have completed subsequent to the baccalaureate degree at least forty-five quarter credit hours (thirty semester credit hours) of graduate level course work in education.

(ii) The candidate must meet requirements for a superintendent's certificate pursuant to WAC 180-79A-150(4).

(b) Continuing.

(i) The candidate shall hold an approved master's degree and have completed subsequent to the baccalaureate degree at least sixty quarter credit hours (forty semester credit hours) of graduate level course work in education or shall hold a doctorate in education.

(ii) The candidate must meet requirements for a superintendent's certificate pursuant to WAC 180-79A-150(4).

(iii) Candidates applying for continuing superintendent's certificate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(2) Principal.

(a) Initial.

(i) The candidate shall hold ((a)) an approved master's degree and have completed an approved program for the preparation of principals.

(ii) Candidates applying for initial principal's certificates who were admitted to a principal preparation program prior to August 31, 1998, shall present documentation of one hundred eighty days or full-time equivalent or more teaching experience with an authorized employer—i.e., school district, state agency, college or university, private school system—and at least thirty days of such employment with the same employer. Candidates applying for the initial principal's certificate who were admitted to a principal preparation program on or after August 31, 1998, shall present documentation of five hundred forty days (three school years) of full-time or more P-12 teaching in a public or private school system. No more than sixty days substitute or equivalent teaching experience may be included for this requirement.

(b) Continuing.

(i) The candidate who applies prior to August 31, 1998, shall hold an approved master's degree and completed subsequent to the baccalaureate degree at least forty-five hours (thirty semester hours) of graduate level course work in education or shall hold a doctorate in education.

(ii) The candidate who applies on or after August 31, 1998, shall hold an approved master's degree and shall have completed at least fifteen quarter (ten semester) credit hours of graduate course work offered by a college or university

with a state approved principal program or one hundred fifty clock hours of study, which meet the state continuing education clock hour criteria pursuant to chapter 180-85 WAC, or a combination of credits and clock hours equivalent to the above. Such study shall:

(A) Be based on the principal performance domains included in WAC 180-78A-270(2);

(B) Be taken subsequent to the issuance of the initial principal's certificate; and

(C) Be determined in consultation with and approved by the candidate's employer or the administrator of a state approved principal preparation program.

(iii) Provided, That a candidate who held a valid initial principal's certificate on August 31, 1998, may meet the academic requirement for the continuing certificate described in WAC 180-79A-211 (2)(b)(ii), if the candidate meets requirements for and applies for the continuing certificate by the expiration date on that initial certificate.

(iv) The candidate must meet requirements for a principal's certificate pursuant to WAC 180-79A-150(4).

((+)) (v) Candidates applying for continuing principal's certificate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer. Candidates applying for the continuing principal's certificate on or after August 31, 1998, shall provide documentation of three contracted school years of full-time employment as a principal or assistant principal.

(vi) Provided, That a candidate who held a valid initial principal's certificate on August 31, 1998, may meet the one hundred-eighty day experience requirement described in WAC 180-79A-211 (2)(b)(v), if that candidate meets requirements and applies for the continuing certificate by the expiration date on that initial certificate.

(3) Program administrator.

(a) Initial.

The candidate shall hold an approved master's degree(~~(; a master's degree required for an educational staff associate certificate, a master's degree in school nursing, occupational therapy or physical therapy, or a master's degree in public education, or business administration))~~) and have completed subsequent to the baccalaureate degree at least twenty-four quarter credit hours (sixteen semester credit hours) of graduate level course work in education.

(b) Continuing.

(i) The candidate shall hold an approved master's degree(~~(; a master's degree required for an educational staff associate certificate, a master's degree in school nursing, occupational therapy, physical therapy, or a master's degree in public education, or business administration))~~) and have completed subsequent to the baccalaureate degree at least thirty quarter credit hours (twenty semester credit hours) of graduate level course work in education or shall hold a doctorate in education.

(ii) Candidates applying for continuing program administrator's certificate shall provide documentation of one hundred eighty days or full-time equivalent or more employment

in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

## WSR 01-03-153

### PERMANENT RULES

### STATE BOARD OF EDUCATION

[Filed January 24, 2001, 10:22 a.m.]

Date of Adoption: January 12, 2001.

Purpose: The amendments clarified what is meant by an "approved baccalaureate degree" and by the term "previous standards." Other amendments were editorial.

Citation of Existing Rules Affected by this Order: Amending WAC 180-78A-264, 180-79A-030, 180-79A-124, and 180-79A-206.

Statutory Authority for Adoption: RCW 28A.410.010, 28A.305.130 (1) and (2).

Adopted under notice filed as WSR 00-24-128 on December 6, 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 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 22, 2001

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 99-23-023, filed 11/9/99, effective 12/10/99)

**WAC 180-78A-264 Approval standard—Program design.** Building on the mission to prepare educators who demonstrate a positive impact on student learning, the following evidence shall be evaluated to determine whether each preparation program is in compliance with the program design standard of WAC 180-78A-220(4):

(1) The curriculum is guided by a conceptual framework and is based on current research and best practice, is cohesive and integrated, is performance-based, and supports the state's student learning goals and for teacher preparation programs, reflects the essential academic learning requirements.

(2) Candidates who demonstrate potential for acquiring the content and pedagogical knowledge and skills for success as educators in schools are recruited, admitted, and retained (see WAC 180-78A-200 Candidate admission policies). These candidates include members from under represented groups.

(3) Candidates attain/demonstrate academic competence in the educator role for which they are being prepared.

(4) A set of criteria/performances for program completion are established and published.

(5) The preparing institution shall assure that candidates are provided with appropriate course work and experiences in teaching methods for each endorsement area. The methods should include:

(a) Instructional strategies.

(b) Curriculum frameworks (essential academic learning requirements).

(c) Assessment strategies, including performance-based measurements of student work.

(d) Unit/lesson planning.

(6) Field experiences are integrated throughout the preparation program and include experience with diverse populations in a variety of settings.

(7) Candidates complete an internship in which they demonstrate the required knowledge and skills: Provided, That candidates for an administrator certificate shall complete an internship pursuant to WAC 180-78A-325, candidates for a school psychologist certificate shall complete an internship pursuant to WAC 180-78A-317, and candidates for a school counselor certificate shall complete an internship pursuant to WAC 180-78A-315.

(8) Programs reflect ongoing collaboration with P-12 schools.

(9) Candidates for a teacher certificate shall hold/obtain a baccalaureate degree from a regionally accredited college or university ~~((in any of the subject areas of the endorsements listed in chapter 180-82 WAC: Provided, That if a candidate is accepted into a program in Washington state on or before August 31, 2000, and completes the program on or before August 31, 2003, in accordance with WAC 180-79A-299, the candidate may hold a baccalaureate degree in any of the subject areas of the endorsements listed in WAC 180-79A-302. Such degrees shall require the completion of at least forty-five quarter hours (thirty semester hours) of course work in the subject area: Provided, That a candidate who holds a baccalaureate degree in another academic field will not be required to obtain a second baccalaureate degree if the candidate provides evidence to the superintendent of public instruction that he or she has completed the required forty-five quarter or thirty semester hours of course work in one of the subject areas of the endorsements listed in WAC 180-79A-302))~~ pursuant to WAC 180-79A-030(5).

**AMENDATORY SECTION** (Amending WSR 99-23-023, filed 11/9/99, effective 12/10/99)

**WAC 180-79A-030 Definitions.** The following definitions shall apply to terms used in this chapter:

(1) The terms, "program approval," "endorsement," "interstate compact," "college or university," and "regionally

accredited institution of higher education," as defined in WAC 180-78-010 and 180-78A-010 shall apply to the provisions of this chapter.

(2) "Certificate" means the license issued by the superintendent of public instruction to teachers, administrators, and educational staff associates verifying that the individual has met the requirements set forth in this chapter.

(3) "Certificate renewal" means the process whereby the validity of a certificate, subject to expiration, is extended or regained.

(4) "Classroom teaching" means instructing pupils in an instructional setting.

(5) "Approved baccalaureate degree" for the purpose of this chapter, means a baccalaureate from a regionally accredited college or university in any of the subject areas of the endorsement listed in chapter 180-82 WAC ((180-79A-302)) as now or hereafter amended: Provided, That if a candidate is accepted into a program in Washington state on or before August 31, 2000, and completes the program on or before August 31, 2003, in accordance with WAC 180-79A-299, the candidate may hold a baccalaureate degree in any of the subject areas of the endorsements listed in WAC 180-79A-302. Such degrees shall require the completion of at least forty-five quarter hours (thirty semester hours) of course work in the subject area: Provided, That a candidate who holds a baccalaureate degree in another academic field will not be required to obtain a second baccalaureate degree if the candidate provides evidence to the superintendent of public instruction that he or she has completed the required forty-five quarter or thirty semester hours of course work in one of the subject areas of the endorsements listed in chapter 180-82 WAC ((180-79A-302)): Provided further, That a candidate who holds a baccalaureate degree in early childhood education, elementary education, or special education will not be required to obtain a second baccalaureate degree if the candidate provides evidence to the superintendent of public instruction that he or she has completed thirty quarter or twenty semester credit hours in one academic field.

(6) "Child abuse course work requirement" means completion of course work or an in-service program including a minimum of ten clock hours of instruction on issues of abuse. The content of the course work or in-service program shall discuss the identification of physical, emotional, sexual, and substance abuse, information on the impact of abuse on the behavior and learning abilities of students, discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are victims of abuse, and methods for teaching students about abuse of all types and their prevention.

(7) "Approved master's degree" for the purpose of this chapter, means a master's or doctorate degree from a regionally accredited college or university.

(8) "Credit hour(s)" means credit (normally 100 level or above) awarded by a regionally accredited institution of higher education.

(9) "Previous standards" means a certification system in place prior to a revision in rules that results in changed names and/or validity periods for the certificates issued.



**AMENDATORY SECTION** (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

**WAC 180-79A-124 Application for certification.** An individual who applies for a Washington state certificate, unless seeking reinstatement pursuant to WAC 180-79A-253 or renewal pursuant to WAC 180-79A-127 or unless otherwise stipulated by the provisions of WAC ~~((180-79A-160))~~ 180-79A-123 must meet the requirements in effect at the time of application.

**AMENDATORY SECTION** (Amending WSR 00-03-048, filed 1/14/00, effective 2/14/00)

**WAC 180-79A-206 Academic and experience requirements for certification—Teachers.** Candidates for teachers' certificates shall complete the following requirements in addition to those set forth in WAC 180-79A-150.

(1) Initial/residency.

Candidates for the initial or residency certificate shall hold an approved baccalaureate degree from a regionally accredited college or university ~~((:—Provided, That if the approved baccalaureate degree is in early childhood education, elementary education, or special education, the candidate also must have at least thirty quarter hours (twenty semester hours) in one of the academic fields listed in WAC 180-79A-302 (3)(a) through (e) and (4)))~~ pursuant to WAC 180-79A-030(5).

(2) Continuing.

(a) Candidates who apply for a continuing certificate shall have at least forty-five quarter hours (thirty semester hours) of upper division and/or graduate work completed from a regionally accredited institution of higher education subsequent to the conferral of the baccalaureate degree: Provided, That if the individual is pursuing study in a new subject matter area or specialization, lower division (freshmen or sophomore level) credit hours in that subject area or specialization shall be accepted toward continuing certification upon completion of the requirements for an endorsement in that subject area or specialization.

(b) Candidates applying for a continuing certificate prior to September 1, 2000, shall have been granted at least two subject area endorsements.

(c) Candidates who apply for a continuing certificate who have not successfully completed course work or an in-service program including a minimum of ten clock hours of instruction on issues of abuse, must complete the child abuse course work requirement as defined in WAC 180-79A-030(6).

(d) Candidates for continuing teachers' certificates shall provide documentation of one hundred eighty days or full-time equivalent or more satisfactory teaching experience with an authorized employer—i.e., school district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(3) Professional.

(a) Candidates for the professional certificate shall have successfully completed a state board of education approved, professional certificate program, pursuant to WAC 180-78A-

500 through 180-78A-540: Provided, That an individual who holds a teaching certificate issued by the National Board for Professional Teaching Standards (NBPTS) shall be deemed to have met the requirement for completion of a professional certificate program, in recognition that NBPTS certification is issued only to individuals who have demonstrated highly advanced skills as a teacher.

(b) Candidates who apply for a professional certificate who have not successfully completed course work or an in-service program including a minimum of ten clock hours of instruction on issues of abuse, must complete the child abuse course work requirement as defined in WAC 180-79A-030(6).

(c) Candidates for professional teachers' certificates shall provide, as a condition for the issuance of a professional certificate, documentation that they have completed provisional status with a school district under RCW 28A.405.220 or the equivalent with an approved private school.



**WSR 01-03-013**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 01-02—Filed January 5, 2001, 2:01 p.m.]

Date of Adoption: January 5, 2001.

Purpose: Amend hunting rules.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 232-28-42400C; and amending WAC 232-28-424.

Statutory Authority for Adoption: RCW 77.12.047.

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 harvest of brant is not allowed until a minimum of 6,000 birds have arrived. It is not expected that the minimum harvestable level will be achieved to allow hunting in 2001. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 5, 2001  
 Evan Jacoby  
 for Jeff P. Koenings  
 Director

NEW SECTION

**WAC 232-28-42400C 2001 Waterfowl seasons—Brant closure.** Notwithstanding the provisions of WAC 232-28-424, effective immediately through January 21, 2001, it is unlawful to hunt for or possess brant taken from the lands and waters of Skagit County.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m., January 21, 2001:

WAC 232-28-42400C 2001 Waterfowl seasons—  
 Brant closure.

**WSR 01-03-014**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 01-01—Filed January 5, 2001, 2:03 p.m.]

Date of Adoption: January 5, 2001.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 220-52-07300B; and amending WAC 220-52-073.

Statutory Authority for Adoption: RCW 77.12.047.

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. Prohibition of all diving within two days of scheduled sea urchin openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 5, 2001  
 J. P. Koenings  
 Director

NEW SECTION

**WAC 220-52-07300C 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) Green sea urchins: Sea Urchin Districts 3, 4, and Marine Fish/Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, and 24D, 26B, 26C, 26D, and 28A are open only on January 8, 9, 10, 11, and 12, 2001. The minimum size for green sea urchins is 2.25 inches in diameter exclusive of the spines.

(2) Red sea urchins: Sea Urchin Districts 1 and 2 are open only on January 8, 9, and 10, 2001. It is unlawful to har-

vest red sea urchins smaller than 4.0 inches or larger than 5.5 inches in diameter exclusive of the spines.

(3) 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.

(4) Sea Urchin Districts:

(a) Sea Urchin District 1 (Northern San Juan Islands) is defined as Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, and those waters of Area 22A north of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and west of a line projected true north from Limestone Point on San Juan Island.

(b) Sea Urchin District 2 (Southern San Juans and Port Townsend) is defined as those waters of Marine Fish/Shellfish Management and Catch Reporting Area 22A south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and east of a line projected true north from Limestone Point on San Juan Island, and Areas 21A, 21B, 22B, 23A, 23B, 25A, and 25B. The following areas within Sea Urchin District 2 are closed to the harvest of sea urchins at all times.

(I) Those waters of Haro Strait north of a line projected east-west one-half mile south of Eagle Point on San Juan Island and south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island.

(ii) Those waters of San Juan Channel and Upright Channel within the following lines: south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island, west of a line from Neck Point on Shaw Island to Steep Point on Orcas Island, south of a line projected from Flat Point on Lopez Island true west to Shaw Island, and north 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.

**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 220-52-07300B Sea urchin. (00-265)

**WSR 01-03-039**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed January 9, 2001, 4:44 p.m.]

Date of Adoption: January 9, 2001.

Purpose: Changes the excess shelter cost deduction from \$275 to \$300.

Citation of Existing Rules Affected by this Order: Amending WAC 388-450-0190.

Statutory Authority for Adoption: RCW 74.08.090 and 74.04.510.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: USDA Food and Nutrition Service mandated that this change be made by October 1, 2000. Because we received the notice on August 2, 2000, we did not have sufficient time to go through the regular rule-filing process. If we do not extend this change clients will lose needed benefits.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Federal law mandates that the department implement this change by October 1, 2000.

Effective Date of Rule: Immediately.

January 9, 2001

Charles Hunter, Director

Administrative Services Division

**AMENDATORY SECTION** (Amending WSR 99-16-024, filed 7/26/99, effective 9/1/99)

**WAC 388-450-0190** How does the department figure my shelter cost income deduction((s)) for food assistance((r))? (1) ~~((Shelter costs include:~~

~~(a) Rent, lease payments and mortgage payments; and~~

~~(b) Utility costs.~~

~~(2) Shelter costs are deducted from gross income if the costs are in excess of fifty percent of the assistance unit's income after deducting the standard, earned income, medical, child support, and dependent care deductions:~~

~~(a) For an assistance unit containing an elderly or disabled member the entire amount of excess shelter costs is deducted;~~

~~(b) For all other assistance units the excess shelter cost deduction cannot exceed two hundred seventy five dollars.~~

~~(3) Shelter costs may include:~~

~~(a) Costs for a home not occupied because of employment, training away from the home, illness, or abandonment caused by casualty loss or natural disaster if the:~~

~~(i) Assistance unit intends to return to the home;~~

~~(ii) Current occupants, if any, are not claiming shelter costs for food assistance purposes; and~~

~~(iii) The home is not being leased or rented during the assistance unit's absence.~~

~~(b) Charges for the repair of the home which was substantially damaged or destroyed due to a natural disaster.~~

~~(e) The standard utility allowance as provided in WAC 388-450-0195)) To figure your shelter cost deduction for food assistance, the department first adds up what your assistance unit (AU) is responsible to pay each month for shelter. We do not count any overdue amounts, late fees, penalties, or any amounts you pay ahead of time as an allowable cost. Your allowable shelter costs include your:~~

~~(a) Ongoing rent, lease, and mortgage payments;~~

~~(b) Property taxes;~~

~~(c) Homeowner's insurance for the building only;~~

~~(d) Utility allowance your AU is eligible for under WAC 388-450-0195;~~

~~(e) Out-of-pocket repairs for the home if it was substantially damaged or destroyed due to a natural disaster such as a fire or flood;~~

~~(f) Expense of a temporarily unoccupied home because of employment, training away from the home, illness, or abandonment caused by a natural disaster or casualty loss if your:~~

~~(i) AU intends to return to the home;~~

~~(ii) AU has current occupants who are not claiming the shelter costs for food assistance purposes; and~~

~~(iii) AU's home is not being leased or rented during your AU's absence.~~

~~(2) Second, we subtract from your AU's gross income all deductions your AU is eligible for under WAC 388-450-0185. The result is your AU's net income.~~

~~(3) Finally, we subtract from your AU's total shelter costs one-half of your net income. The result is your excess shelter cost income deduction. The deduction your AU will get is:~~

~~(a) Up to a maximum of three hundred dollars if no one in your AU is elderly or disabled and you were found eligible for benefits prior to March 1, 2001; or~~

~~(b) Up to a maximum of three hundred forty dollars if no one in your AU is elderly or disabled and you were found eligible for benefits or were recertified for benefits either on or after March 1, 2001; or~~

~~(c) The entire amount if someone in your AU is elderly or disabled, even if the amount exceeds three hundred forty dollars.~~

the United States to the date they are granted asylum. Prior to this change asylees were not eligible for RCA until asylum had been granted. This was usually after the eight-month time limit expired. This change reflects a reversal of policy by the United States Immigration and Naturalization Service (INS).

Citation of Existing Rules Affected by this Order: Amending WAC 388-400-0030.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090.

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: Prior to this change asylees could not timely access RCA as by the time asylum had been granted the eight-month time limit (from the month of entry) had expired. This change will ensure that asylees will be able to get needed benefits under the RCA program. If this change is not implemented now clients will lose benefits they are entitled to receive.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Immediately.

January 9, 2001

Charles Hunter, Director  
Administrative Services Division

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-400-0030 How do I qualify for refugee cash assistance~~((Summary of eligibility requirements))~~ (1) To be eligible for refugee cash assistance (RCA), ~~((persons))~~ you must:

(a) Provide the name of the voluntary agency (VOLAG) which resettled ~~((them))~~ you; and

(b) Meet the:

(i) Immigration status requirements of WAC 388-466-0005;

(ii) Work and training requirements of WAC 388-466-0015;

WSR 01-03-041

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed January 9, 2001, 4:49 p.m.]

Date of Adoption: January 9, 2001.

Purpose: Change the date that asylees become eligible for refugee cash assistance (RCA) from the month they enter

(iii) Income and resource requirements under chapters 388-450 and 388-470 WAC with exceptions as provided under WAC 388-466-0010(;~~and~~

(iv) ~~Monthly reporting requirements of chapter 388-456 WAC).~~

(2) ~~((Persons))~~ You are not eligible to receive RCA if ~~((they))~~ you:

(a) Are eligible for temporary assistance for needy families (TANF) or Supplemental Security Income;

(b) Have been denied TANF or have been terminated from TANF due to intentional noncompliance with TANF eligibility requirements; or

(c) ~~Are a full-time ((students in institutions of higher education unless the educational activity is part of a department-approved employability plan.~~

~~(3) Refugee families, including families with children who are United States citizens, will be treated as single assistance units according to chapter 388-408 WAC.~~

~~(4) Eligibility and benefit levels for RCA assistance units are determined using the TANF payment standards in WAC 388-478-0020.~~

~~(5) Persons eligible for RCA are eligible for additional requirements for emergent situations as provided in chapter 388-436 WAC.~~

~~(6) A person meeting the requirements of this section is eligible for refugee cash assistance only during the eight-month period beginning in the first month the person entered the United States))~~ student in an institution of higher education.

(3) If you are a refugee family and have children who are United States citizens, we treat you as a single assistance unit under chapter 388-408 WAC.

(4) We determine your eligibility and benefit level for RCA using the TANF payment standards under WAC 388-478-0020.

(5) If you are eligible for RCA and are pregnant or have a dependent child you may also be eligible for additional requirements for emergent needs under WAC 388-436-0002.

(6) If you meet the requirements of this section you are eligible for refugee cash assistance only during the eight-month period beginning:

(a) The date asylum is granted if you are an asylee; or

(b) The first month you entered the United States if you are not an asylee.

### WSR 01-03-043

#### EMERGENCY RULES

#### DEPARTMENT OF

#### FISH AND WILDLIFE

[Order 01-03—Filed January 9, 2001, 5:29 p.m.]

Date of Adoption: January 8, 2001.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-52-07300C; and amending WAC 220-52-073.

Statutory Authority for Adoption: RCW 77.12.047.

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 District 3. Prohibition of all diving within two days of scheduled sea urchin openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 8, 2001

J. P. Koenings

Director

by Larry Peck

#### NEW SECTION

**WAC 220-52-07300D 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) Green sea urchins: Sea Urchin Districts 3, 4, and Marine Fish/Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, and 24D, 26B, 26C, 26D, and 28A are open only on January 8, 9, 10, 11, and 12, 2001. The minimum size for green sea urchins is 2.25 inches in diameter exclusive of the spines.

(2) Red sea urchins: Sea Urchin Districts 1 and 2 are open only on January 8, 9, and 10, 2001. Sea Urchin District 3 is open only on January 10, 2001. The maximum daily landing for a vessel in Sea Urchin District 3 is 1,000 pounds of red sea urchins. It is unlawful to harvest red sea urchins larger or smaller than the following size (size in diameter exclusive of the spines):

(a) Districts 1 and 2 - 4.0 minimum to 5.5 maximum inches.

(b) District 3 - 3.25 minimum to 5.0 maximum inches.

(3) 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.

(4) Sea Urchin Districts:

(a) Sea Urchin District 1 (Northern San Juan Islands) is defined as Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, and those waters of Area 22A north of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and west of a line projected true north from Limestone Point on San Juan Island.

(b) Sea Urchin District 2 (Southern San Juans and Port Townsend) is defined as those waters of Marine Fish/Shellfish Management and Catch Reporting Area 22A south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and east of a line projected true north from Limestone Point on San Juan Island, and Areas 21A, 21B, 22B, 23A, 23B, 25A, and 25B. The following areas within Sea Urchin District 2 are closed to the harvest of sea urchins at all times.

(I) Those waters of Haro Strait north of a line projected east-west one-half mile south of Eagle Point on San Juan Island and south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island.

(ii) Those waters of San Juan Channel and Upright Channel within the following lines: south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island, west of a line from Neck Point on Shaw Island to Steep Point on Orcas Island, south of a line projected from Flat Point on Lopez Island true west to Shaw Island, and north 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.

**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 220-52-07300C Sea urchins. (01-01)

**WSR 01-03-044  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 01-04—Filed January 9, 2001, 5:32 p.m.]

Date of Adoption: January 8, 2000.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-56-240.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of

notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary to coordinate fishing rules in the Columbia River, reduce angler confusion and provide additional fishing opportunity. A permanent rule change has been filed to accomplish this, and this rule will be in effect until the permanent rule takes effect.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 8, 2001

J. P. Koenings

Director

**NEW SECTION**

**WAC 220-56-24000E Sturgeon—Suspension of daily and annual limits.** Notwithstanding the provisions of WAC 220-56-240, effective immediately until further notice in the waters of the mainstem Columbia River forming the boundary between the states of Oregon and Washington:

(1) Fishers may continue to fish for sturgeon after retaining the daily limit, provided all subsequent sturgeon are released.

(2) Fishers may continue to fish for sturgeon after retaining the annual possession limit, providing all subsequent sturgeon are released.

(3) A catch record card shall remain valid for sturgeon after the fisher has retained the ten sturgeon allowed during the license year.

**WSR 01-03-061  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 01-05—Filed January 11, 2001, 4:18 p.m., effective January 12, 2001, 12:01 a.m.]

Date of Adoption: January 10, 2001.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 232-28-61900N; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

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: Winter steelhead egg take needs are not being met at most hatchery collection sites in Puget Sound. These closures are requested to enhance brood-stock collection at the primary receiving stations and will continue until the hatchery program feels egg take goals will be met. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 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: January 12, 2001, 12:01 a.m.

January 10, 2001

J. P. Koenings

Director

by Larry Peck

#### NEW SECTION

**WAC 232-28-61900N Exceptions to statewide rules.** Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. January 12 through 11:59 p.m. February 28, 2001 the following waters are closed to fishing:

(1) Those waters of the Cascade river from the mouth to the Rockport-Cascade road bridge.

(2) Those waters of the Skykomish River from 1000 feet downstream of the Reiter ponds outlet to 1500 feet upstream of the Reiter ponds outlet.

(3) Those waters of Tokul Creek from the mouth upstream to the posted cable boundary.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. March 1, 2001:

WAC 232-28-61900N Exceptions to statewide rules.

#### WSR 01-03-062 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 01-06—Filed January 11, 2001, 4:20 p.m., effective January 12, 2001, 11:59 p.m.]

Date of Adoption: January 11, 2001.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07300D; and amending WAC 220-52-073.

Statutory Authority for Adoption: RCW 77.12.047.

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. 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: January 12, 2001, 11:59 p.m.

January 11, 2001

J. P. Koenings

Director

by Larry Peck

#### NEW SECTION

**WAC 220-52-07300E 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) Green sea urchins: Sea Urchin Districts 3, 4, and Marine Fish/Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, and 24D, 26B, 26C, 26D, and 28A are open only on January 16, 17, and 18, 2001. The minimum size for green sea urchins is 2.25 inches in diameter exclusive of the spines.



(2) Red sea urchins: Sea Urchin Districts 1 and 2 are open only on January 16, 2001. It is unlawful to harvest red sea urchins smaller than 4.0 inches or larger than 5.5 inches in diameter exclusive of the spines.

(3) 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 January 14 and 15, 2001.

(4) Sea Urchin Districts:

(a) Sea Urchin District 1 (Northern San Juan Islands) is defined as Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, and those waters of Area 22A north of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and west of a line projected true north from Limestone Point on San Juan Island.

(b) Sea Urchin District 2 (Southern San Juans and Port Townsend) is defined as those waters of Marine Fish/Shellfish Management and Catch Reporting Area 22A south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and east of a line projected true north from Limestone Point on San Juan Island, and Areas 21A, 21B, 22B, 23A, 23B, 25A, and 25B. The following areas within Sea Urchin District 2 are closed to the harvest of sea urchins at all times.

(i) Those waters of Haro Strait north of a line projected east-west one-half mile south of Eagle Point on San Juan Island and south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island.

(ii) Those waters of San Juan Channel and Upright Channel within the following lines: south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island, west of a line from Neck Point on Shaw Island to Steep Point on Orcas Island, south of a line projected from Flat Point on Lopez Island true west to Shaw Island, and north 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.

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 11:59 p.m. January 12, 2001:

WAC 220-52-07300D Sea urchins. (01-03)

**WSR 01-03-078  
EMERGENCY RULES  
WASHINGTON STATE PATROL**

[Filed January 16, 2001, 10:29 a.m.]

Date of Adoption: January 16, 2001.

Purpose: To allow individuals who loan their vehicle to retrieve it when the individual to whom they loaned their vehicle has been arrested for driving with a suspended license under limited circumstances.

Citation of Existing Rules Affected by this Order: Amending WAC 204-96-010.

Statutory Authority for Adoption: RCW 46.55.113 and 46.55.120.

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: So that the WAC applies equally to all who drive and own vehicles, per Spokane County District Court ruling.

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 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.

January 16, 2001  
Annette M. Sandberg  
Chief

**AMENDATORY SECTION** (Amending WSR 00-18-006, filed 8/24/00, effective 8/24/00)

**WAC 204-96-010 Vehicle impounds.** When a driver of a vehicle is arrested for a violation of:

- RCW 46.61.502 Driving under the influence,
- RCW 46.61.504 Physical control of vehicle under the influence,
- RCW 46.20.342 Driving while license suspended or revoked,
- RCW ((46.20.420))  
46.20.345 Operation of motor vehicle under other license/permit prohibited while suspended or revoked,

the arresting officer shall cause the vehicle to be impounded.

If the driver is arrested for a violation of RCW 46.20.342 (1)(c) (3rd degree suspended/revoked) and has no convictions for violations of RCW 46.20.342 in the past five years, the vehicle shall be impounded, but no suspended driver hold shall be placed on the vehicle. If the driver is also the registered owner then the vehicle shall be held until all outstanding penalties, fines, and forfeitures owed by him/her are satisfied. The driver/registered owner must present proof from a

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court of law that he/she has no outstanding penalties, fines, or forfeitures.

If the driver is arrested for a violation of RCW 46.20.342 (1)(c) (3rd degree suspended/revoked) and has any prior convictions for violations of RCW 46.20.342 in the past five years, the vehicle shall be held for thirty days.

If the driver of the vehicle is arrested for a violation of RCW 46.20.342 (1)(a) or (b) (1st or 2nd degree suspended/revoked) and has no convictions for violations of RCW 46.20.342 in the past five years, the vehicle shall be held for thirty days.

If the driver of the vehicle is arrested for a violation of RCW 46.20.342 (1)(a) or (b) (1st or 2nd degree suspended/revoked) and has been convicted of a violation of RCW 46.20.342 (1)(a) or (b) in the past five years, the vehicle shall be held for sixty days.

If the driver of the vehicle is arrested for a violation of RCW 46.20.342 (1)(a) or (b) (1st or 2nd degree suspended/revoked) and has been convicted of a violation of RCW 46.20.342 (1)(a) or (b) two or more times in the past five years, the vehicle shall be held for ninety days.

The release of all vehicles impounded under this WAC shall be governed by RCW 46.55.120. Commercially rented vehicles may be impounded, however no suspended driver holds shall be placed upon the vehicle. The rental company shall be notified by phone.

A vehicle may be released prior to the mandated hold period if the employer or spouse of the arrested driver establishes significant economic or personal hardship with the district commander of the district in which the vehicle was impounded. In making a hardship determination, the district commander shall consider public safety factors, including the driver's criminal history and driving record. All hardship release requests shall be in writing. Any denial or approval of a hardship release shall be in writing and shall include factors considered by the district commander in reaching the decision.

A vehicle may be released prior to the mandated hold period if the registered owner of a vehicle loaned to another person is able to demonstrate to the district commander of the district in which the vehicle was impounded that he/she had no knowledge that the person to whom the vehicle was loaned did not have valid driving privileges within the state of Washington, is willing to swear to this lack of knowledge under penalty of the perjury laws of the state of Washington and further agrees that this hardship determination, if allowed, is available only one time in the state of Washington. The registered owner of the loaned vehicle also agrees that he/she shall pay any and all towing fees, storage fees and administrative fees to the towing company before the vehicle is released. In addition, in the event a hardship is granted, the registered owner of the loaned vehicle agrees that he/she will comply with the conditions set forth on the form(s) provided by the Washington state patrol prior to loaning the vehicle to any individual in the future.

**WSR 01-03-088  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 01-07—Filed January 17, 2001, 1:45 p.m.]

Date of Adoption: January 16, 2001.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-44-050.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These rules were adopted by the Pacific Fisheries Management Council, and provide for harvest of available stocks of bottom fish, while reserving brood stock for future fisheries. The rules are incorporated by reference because of undue length, and problems in publishing such rules in the Washington state register. There is insufficient time to promulgate permanent rules and to provide for a fishery.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 16, 2001

J. P. Koenigs

Director

by Larry Peck

**NEW SECTION**

**WAC 220-44-05000C Coastal bottom fish catch limits.** Notwithstanding the provisions of WAC 220-44-050, effective immediately until further notice:

(1) It is unlawful to possess, transport through the waters of the state, or land into any Washington port bottom fish taken from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 60A-1, 60A-2, 61, 62, or 63 in excess of the amounts or less than the minimum sizes, or in violation of any gear, handling or landing requirement, established by the Pacific Fisheries Management Council and published in the Federal Register, Volume 66,

No. 8, published January 11, 2001. Therefore, persons must consult the federal regulations, which incorporated by reference and made a part of Chapter 220-44 WAC. Where rules refer to the fishery management area, that area is extended to include Washington State waters coterminous with the Exclusive Economic Zone. A copy of the federal rules may be obtained by contacting Evan Jacoby at (360) 902-2930.

(2) At the time of landing of coastal bottom fish into Washington port, the fish buyer receiving the fish is required to clearly mark on the fish receiving ticket in the space reserved for dealer's use all legally defined trawl gear aboard the vessel at the time of delivery. The three trawl gear types are: midwater trawl, roller trawl and small foot rope trawl (foot rope less than eight inches in diameter). The notation of the gear type(s) aboard the vessel is required prior to the signing of the fish receiving ticket by the vessel representative.

(3) Vessels engaged in chartered research for National Marine Fisheries Service (NMFS) may land and sell bottomfish caught during that research without the catch being counted toward any trip or cumulative limit for the participating vessel. Vessels that have been compensated for research work by NMFS with an Exempted Fishing Permit (EFP) to land fish as payment for such research may land and sell fish authorized under the EFP without the catch being counted toward any trip or cumulative limit for the participating vessel. Any bottomfish landed during authorized NMFS research or under the authority of a compensating EFP for past chartered research work must be reported on a separate fish receiving ticket and not included on any fish receiving ticket reporting bottomfish landed as part of any trip or cumulative limit. Bottomfish landed under the authority of NMFS research work or an EFP compensating research with fish must be clearly marked "NMFS Compensation Trip" on the fish receiving ticket in the space reserved for dealer's use. The NMFS scientist in charge must sign the fish receiving ticket in the area reserved for dealer's use if any bottomfish are landed during authorized NMFS research. If the fish are landed under the authority of an EFP as payment for research work, the EFP number must be listed in the dealer's use space.

**WSR 01-03-093  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 01-08—Filed January 18, 2001, 3:24 p.m., effective January 19, 2001, 12:01 a.m.]

Date of Adoption: January 18, 2001.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07300E; and amending WAC 220-52-073.

Statutory Authority for Adoption: RCW 77.12.047.

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. 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: January 19, 2001, 12:01 a.m.

January 18, 2001

J. P. Koenings

Director

by Larry Peck

**NEW SECTION**

**WAC 220-52-07300F 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) Green sea urchins: Sea Urchin Districts 3, 4, and Marine Fish/Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, and 24D, 26B, 26C, 26D, and 28A are open only on January 22, 23, 24, and 25, 2001. The minimum size for green sea urchins is 2.25 inches in diameter exclusive of the spines.

(2) Red sea urchins: Sea Urchin Districts 1 and 2 are open only on January 22, 23, and 24, 2001. It is unlawful to harvest red sea urchins smaller than 4.0 inches or larger than 5.5 inches in diameter exclusive of the spines.

(3) 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.

(4) Sea Urchin Districts:

(a) Sea Urchin District 1 (Northern San Juan Islands) is defined as Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, and those waters of Area 22A north of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and west of a line projected true north from Limestone Point on San Juan Island.

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(b) Sea Urchin District 2 (Southern San Juans and Port Townsend) is defined as those waters of Marine Fish/Shellfish Management and Catch Reporting Area 22A south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island and east of a line projected true north from Limestone Point on San Juan Island, and Areas 21A, 21B, 22B, 23A, 23B, 25A, and 25B. The following areas within Sea Urchin District 2 are closed to the harvest of sea urchins at all times.

(I) Those waters of Haro Strait north of a line projected east-west one-half mile south of Eagle Point on San Juan Island and south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island.

(ii) Those waters of San Juan Channel and Upright Channel within the following lines: south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island, west of a line from Neck Point on Shaw Island to Steep Point on Orcas Island, south of a line projected from Flat Point on Lopez Island true west to Shaw Island, and north 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.

**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 11:59 p.m. January 18, 2001:

WAC 220-52-07300E Sea urchins. (01-06)

**WSR 01-03-098**  
**EMERGENCY RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
[Filed January 19, 2001, 9:02 a.m.]

Date of Adoption: January 2, 2001.

Purpose: Educational service district rules are amended to allow educational districts to enter into contracts for periods not exceeding twenty years as permitted by RCW 28A.310.460.

Citation of Existing Rules Affected by this Order: Amending WAC 392-125-080.

Statutory Authority for Adoption: RCW 28A.310.330.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Emergency rule adoption is necessary for consistency with RCW 28A.310.460 and to eliminate contradictory guidance.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 19, 2001  
Dr. Terry Bergeson  
Superintendent of  
Public Instruction

AMENDATORY SECTION (Amending WSR 90-16-002 (Order 18), [filed 7/19/90])

**WAC 392-125-080 Contractual liability extending beyond end of fiscal period.** The board of any educational district may enter into contracts for their respective districts for periods not exceeding (~~five~~) twenty years in duration with public and private persons, organizations, and entities for the following purposes:

- (1) To rent or lease building space, portable buildings, security systems, computers, and other equipment; and
- (2) To have maintained and repaired security systems, computers and other equipment.

The budget of each educational service district shall contain a schedule which identifies that portion of each contractual liability incurred pursuant to RCW 28A.310.460 which extends beyond the fiscal period. Said schedule shall list for each such contractual liability a brief description, the accounting code, the beginning and ending dates, the total dollar amount, and the estimated amount extending beyond the end of the fiscal period being budgeted.

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

**WSR 01-03-132**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed January 23, 2001, 2:17 p.m.]

Date of Adoption: January 23, 2001.

Purpose: Amend WAC 388-310-0900, 388-310-1000 and 388-310-1050, to describe the new eligibility rules for internships and practicums, and seasonal employment.

Citation of Existing Rules Affected by this Order: Amending WAC 388-310-0900, 388-310-1000, and 388-310-1050.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The department also recently approved allowing internships, practicums, and seasonal employment to meet the work requirement for TANF. The department must file this rule change by emergency because of the time sensitive nature of these policy changes, as seasonal workers approach the off season and the fall quarter begins.

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: Immediately.

January 23, 2001

Bonita H. Jacques, Chief  
Office of Legal Affairs

AMENDATORY SECTION (Amending WSR 99-10-027, filed 4/28/99, effective 5/29/99)

**WAC 388-310-0900 WorkFirst—Basic education. (1) What is basic education?**

Basic education is high school completion, classes to prepare for GED and testing to acquire GED certification. It may include families that work, workplace basics, adult basic education (ABE) or English as a second language (ESL) training if:

(a) It is determined you need this education to become employed or get a better job; and

(b) This activity is combined with paid or unpaid employment or job search.

**(2) When do I participate in basic education as part of WorkFirst?**

You may participate in basic education as part of WorkFirst under any of the following circumstances:

(a) You may choose to participate, if you are twenty years of age or older and are working in paid or unpaid employment or in job search for a minimum of twenty hours a week (in addition to the basic education).

(b) You may be required to participate if you are a mandatory participant, a parent eighteen or nineteen years of age, you do not have a high school diploma or GED certificate and you need this education in order to find employment.

(c) You will be required to be in high school or a GED certification program if you are a mandatory participant, sixteen or seventeen years old and you do not have a high school diploma or GED certificate.

(d) Employment security department (ESD) has determined that you are a seasonal worker (that is, your normal way of life is based on recurring cycle of seasonal employment). Under WorkFirst, seasonal workers qualify for full-time education and training during the off season.

**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 WSR 99-10-027, filed 4/28/99, effective 5/29/99)

**WAC 388-310-1000 WorkFirst—Vocational education. (1) What is vocational education?**

Vocational education is training that leads to a degree or certificate in a specific occupation and is offered by an accredited:

- (a) Public and private technical college or school;
- (b) Community college; or
- (c) Tribal college.

**(2) When can vocational education be included in my individual responsibility plan?**

We may add vocational education to your individual responsibility plan if:

- (a) You are working twenty or more hours a week; or
- (b) ~~((You lack job skills that are in demand for entry level jobs in your area; and~~

~~(e) The vocational education program is the only way that you can acquire the job skills you need to qualify for entry level jobs in your area (because there is no available work experience, pre-employment training or on-the-job training that can teach you these skills))~~ Employment security department (ESD) has determined that you are a seasonal worker (that is, your normal way of life is based on a recurring cycle of seasonal employment). Under WorkFirst, seasonal workers qualify for full-time education and training during the off season; or

(c) You are in an internship or practicum for up to twelve months that is paid or unpaid and required to complete a course of vocational training or to obtain a license or certificate in a high demand field, as determined by the employment security department; or

(d) You lack job skills that are in demand for entry level jobs in your area; and the vocational education program is the only way that you can acquire the job skills you need to qualify for entry level jobs in your area (because there is no available work experience, pre-employment training or on-the-job training that can teach you these skills).

**(3) Can I get help with paying the costs of vocational education?**

WorkFirst will pay for the costs of your vocational education, such as tuition or books, if vocational education is in

your individual responsibility plan and there is no other way to pay them. You can also get help with paying your child care costs through the working connections child care program. (See chapter 388-290 WAC for the working connections child care program rules.)

AMENDATORY SECTION (Amending WSR 99-10-027, filed 4/28/99, effective 5/29/99)

**WAC 388-310-1050 WorkFirst—Job skills training.**

**(1) What is job skills training?**

Job skills training is training in specific skills directly related to employment, but not tied to a specific occupation. Job skills training programs differ in how long the course lasts, what skills are taught and who provides the training. The training may be offered by:

- (a) Community based organizations;
- (b) Businesses;
- (c) Tribal governments; or
- (d) Public and private community and technical colleges.

**(2) When can job skills training be included in my individual responsibility plan?**

We may add job skills training in your individual responsibility plan for the same reasons we would add vocational education. That is if:

- (a) You are working twenty or more hours a week; or
- (b) Employment security department (ESD) has determined that you are a seasonal worker (that is, your normal way of life is based on a recurring cycle of seasonal employment). Under WorkFirst, seasonal workers qualify for full-time education and training during the off season; or

(c) You are in an internship or practicum for up to twelve months that is paid or unpaid and required to complete a course of vocational training or to obtain a license or certificate in a high demand field, as determined by the employment security department; or

(d) You lack job skills that are in demand for entry level jobs in your area; and

((e)) (e) The job skills training program is the only way you can acquire the job skills you need to qualify for entry level jobs in your area (because there is no available work experience, pre-employment training, or on-the-job training that can teach you these skills).

**(3) Can I get help with paying the costs of job skills training?**

WorkFirst will pay your costs, such as tuition or books, if job skills training is in your individual responsibility plan and there is no other way to pay them. You can also get help with paying your child care costs through the working connections child care program. (See chapter 388-290 WAC for the working connections child care program rules.)

**WSR 01-03-004**

**AGENDA**

**OFFICE OF THE  
INTERAGENCY COMMITTEE**

(Salmon Recovery Funding Board)

(Interagency Committee for Outdoor Recreation)

[Filed January 4, 2001, 1:20 p.m.]

**SEMIANNUAL RULE DEVELOPMENT AGENDA**

**Interagency Committee for Outdoor Recreation (IAC)/  
Salmon Recovery Funding Board (SRFB)**

To comply with RCW 34.05.314, IAC/SRFB has prepared the following agenda for rules under development. As required, filing will be made with the code reviser for the publication in the *State Register* by January 31 and July 31 each year. Within three days of publication, IAC/SRFB will provide copies to each person so requesting, the director of OFM, the rules review committee, and other state agencies that may reasonably be expected to have an interest in this subject.

Contact: Greg Lovelady, Rules Coordinator, (360) 902-3008, GregL@IAC.WA.GOV.

Subject of possible rule making	(b) Reasons why rules on this subject may be needed and what might be accomplished:
286-06-065 Public records, Indexes.	A routine "housekeeping" update of Interagency Committee for Outdoor Recreation rules, including the general use of improved text, deletion of unnecessary wording, expanded information on privacy, updated photocopy charges, and the expansion of certain prerogatives regarding IAC's board.
286-13-040 Deadlines—Applications, plans, and matching funds.	A clarification to the IAC administrative code that addresses deadline waivers. To avoid confusion, two of the examples provided in this section will be revised to state the type of waiver to which they apply.

Greg Lovelady  
Rules Coordinator

**WSR 01-03-005**

**NOTICE OF PUBLIC MEETINGS  
HUMAN RIGHTS COMMISSION**

[Memorandum—January 2, 2001]

Following is a copy of the schedule of meetings of the Washington State Human Rights Commission for 2001.

With the exception of the conference calls, the usual format for the meetings is a planning session or community meeting on Thursday evening from 7:00 p.m. - 9:00 p.m. and a regular business meeting beginning at 9:00 a.m. on Friday.

Please contact 753-4876 or tcalahan@hum.wa.gov if you have questions or need additional information.

**COMMISSION MEETING DATES AND LOCATIONS  
FOR 2001**

**(Thursday/Friday Meetings  
Unless Otherwise Indicated)**

DATES	LOCATION
January 25-26	Seattle
February 22-23	Tacoma
March 29-30	Olympia
April 26-27	Wenatchee
May 24-25	Kelso and Vancouver
June 28-29	Yakima
July 26-27	Bellingham
August 24 (Friday)	Olympia (conference call)
September 27-28	Tri-Cities
October 25-26	Spokane
November 16 (Friday)	Olympia (conference call)
December 21 (Friday)	Olympia (conference call)

**WSR 01-03-006**

**NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF AGRICULTURE**

(Hop Commission)

[Memorandum—January 2, 2001]

The Washington Hop Commission has adopted a schedule for 2001 regular and annual meetings. Per WAC 16-532-020 (11)(a) we are required to hold four regular and one annual meeting each year. We file the following information, as required by RCW 42.30.075:

February 20	Yakima
April 10	Zillah
June 12	Prosser
October 16	Sunnyside
December 7	Yakima (Annual Meeting)

Interested parties may call the Washington Hop Commission at (509) 453-4749 for the time and site of each meeting.

**WSR 01-03-007**

**NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF CORRECTIONS**

(Office of Correctional Operations)

[Memorandum—January 2, 2001]

**Notice of Special Meeting**

A special meeting of the Correctional Industries board of directors has been scheduled for 3:00 p.m., January 4, 2001.

MISC.

The meeting will be conducted telephonically and a quorum established. The only business to be conducted is the board's review of the farm, dairy and related operations managed by Correctional Industries at the Monroe Correctional Complex and the Washington State Penitentiary.

If you have any questions concerning this meeting, please contact (360) 753-5861.

**WSR 01-03-008**  
**NOTICE OF PUBLIC MEETINGS**  
**LOWER COLUMBIA COLLEGE**  
 [Memorandum—December 29, 2000]

On December 20, 2000, the Lower Columbia College board of trustees adopted the following meeting schedule for the year 2001. All regularly scheduled meetings are held on the third Wednesday of each month, at 5:00 p.m. on the college campus (unless otherwise noted on the schedule).

**Lower Columbia College Board of Trustees**  
**2001 Meeting Schedule**

February 13, 2001	12:00 p.m.	Special Meeting	Heritage Room
March 21, 2001	5:00 p.m.	Regular Meeting	Heritage Room
April 18, 2001	5:00 p.m.	Regular Meeting	Heritage Room
May 16, 2001	5:00 p.m.	Regular Meeting	Heritage Room
June 20, 2001	5:00 p.m.	Regular Meeting	Heritage Room
July 18, 2001	9:00 a.m.	Workshop	TDB
August 2001	<b>No meeting scheduled</b>		
September 19, 2001	5:00 p.m.	Regular Meeting	Heritage Room
October 17, 2001	5:00 p.m.	Regular Meeting	Heritage Room
November 14, 2001	5:00 p.m.	Regular Meeting	Heritage Room
December 12, 2001	5:00 p.m.	Regular Meeting	Heritage Room

**WSR 01-03-018**  
**NOTICE OF PUBLIC MEETINGS**  
**OFFICE OF THE GOVERNOR**  
 (Clemency and Pardons Board)  
 [Memorandum—January 5, 2001]

**Clemency and Pardons Board Meetings**

On January 16, 2001, at 2:00 p.m. there will be a conference call among the board members to take action on the Efen Barron case. A speaker phone will be available for public participation at the Mabton Police Department, Council Chambers, 305 Main Street, Mabton, WA.

**WSR 01-03-019**  
**NOTICE OF PUBLIC MEETINGS**  
**PUBLIC DISCLOSURE COMMISSION**  
 [Memorandum—January 2, 2001]

The following is a list of the meetings currently scheduled for the Public Disclosure Commission for the year 2001:

- Tuesday, January 23
- Tuesday, February 27
- Tuesday, March 27
- Tuesday, April 24
- Tuesday, May 22
- Tuesday, June 26
- Tuesday, July 24
- Tuesday, August 28
- Tuesday, September 25
- Tuesday, October 23
- Tuesday, November 20
- Tuesday, December 18

**WSR 01-03-020**  
**NOTICE OF PUBLIC MEETINGS**  
**BELLINGHAM TECHNICAL COLLEGE**  
 [Memorandum—January 5, 2001]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, January 18, 2001, 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 01-03-021**  
**NOTICE OF PUBLIC MEETINGS**  
**PENINSULA COLLEGE**  
 [Memorandum—January 2, 2001]

**Revision to Board of Trustees Calendar**  
**Open Public Meetings 2001**

The board of trustees of Peninsula College, District 1, Port Angeles, Washington, submits a change for the regular February 13, 2001, meeting.

The regular meeting will take place at the Port Angeles-Art Feiro Marine Lab on the Port Angeles City Pier, at 2:00 p.m.

MISC.



**WSR 01-03-022**

**NOTICE OF PUBLIC MEETINGS  
EDMONDS COMMUNITY COLLEGE**

[Memorandum—January 5, 2001]

EDMONDS COMMUNITY COLLEGE  
BOARD OF TRUSTEES  
NOTICE OF SPECIAL MEETINGS  
TO MEDIA/OTHER

January 18, 2001 Edmonds Community College Board of Trustees Special Board Meeting: EdCC, Snohomish Hall, Room 304A, 20226 68th Avenue West, Lynnwood, WA, 4:00 p.m.  
*Purpose: To address routine college business issues.*

**WSR 01-03-023**

**INTERPRETIVE OR POLICY STATEMENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

[Filed January 5, 2001, 3:21 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: CN 205.  
Subject: Interstate income withholding.  
Effective Date: December 15, 2000.  
Document Description: This notice instructs field office staff in how to manage interstate income withholding.

To receive a copy of the interpretive or policy statement, contact Martha Dickens, Division of Child Support, P.O. Box 9162, Olympia, WA 98507-9162, phone (360) 664-5217, TDD (360) 753-9122, fax (360) 586-3274, e-mail mdickens@dshs.wa.gov.

December 28, 2000  
Martha Dickens

**WSR 01-03-025**

**NOTICE OF PUBLIC MEETINGS  
WASHINGTON STATE LIBRARY**

(Library Commission)

[Memorandum—January 5, 2001]

**WASHINGTON STATE LIBRARY COMMISSION  
MEETING SCHEDULE FOR 2001**

Following are the dates, times, and locations of the Library Commission meetings and workshops for the year 2001.

The business meetings will be held in the Cherberg Building, Conference Room A, will begin at 1:30 p.m., and will be conducted until business is completed.

The workshops will be held at the Washington State Library. There is no agenda and no action is taken on issues during any workshop.

- Business Meetings: Tuesday, March 6  
Tuesday, June 5  
Wednesday, September 12  
Tuesday, December 4
- Workshops: Thursday, February 8, 10:00 a.m.  
Wednesday, May 9, 1:30 p.m.  
Tuesday, August 7, 1:30 p.m.  
Tuesday, November 6, 1:30 p.m.

**WSR 01-03-026**

**NOTICE OF PUBLIC MEETINGS  
PUBLIC EMPLOYMENT  
RELATIONS COMMISSION**

[Memorandum—January 4, 2001]

NOTICE OF 2001 PUBLIC MEETINGS

The following is a schedule of the regular meetings of the Public Employment Relations Commission for 2001:

- January 9
- February 13
- March 13
- April 10
- May 8
- June 12
- July 10
- August 14
- September 11
- October 9
- November 13
- December 11

All meetings begin at 10:00 a.m. Meetings are held in the Evergreen Plaza Building, 711 Capitol Way, Olympia, WA. Attendees should check at Room 603 for the specific room number.

Following due notice, some meetings may be rescheduled or relocated.

Meeting sites are barrier free to the greatest extent possible. Braille or taped agenda items for visually impaired persons, and interpreters for individuals with hearing impairment will be provided if requested with adequate notice. Such requests should be made at least ten working days in advance of the scheduled meeting date, and should be addressed to the Public Employment Relations Commission, P.O. Box 40919, Olympia, WA 98504-0919.

MISC.

**WSR 01-03-027**  
**NOTICE OF PUBLIC MEETINGS**  
**CONVENTION AND TRADE**  
**CENTER**

[Memorandum—January 4, 2001]

A regular meeting of the Washington State Convention and Trade Center board of directors will be held on Wednesday, January 10, 2001, at 1:30 p.m. in Room 310 of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding this meeting, please call (206) 694-5000.

**WSR 01-03-030**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF AGRICULTURE**  
**(Beef Commission)**

[Memorandum—January 3, 2001]

Following are the Year 2001 meeting dates for the Washington State Beef Commission:

February 15-16, 2001	Strategic Planning/ Board Meeting	Seattle
April 19, 2001	Board Meeting	Ellensburg
June 21, 2001	Annual Meeting	Ellensburg
August 16-17, 2001	Board Meeting	Lake Chelan
November 5-7, 2001	Board Meeting	Coeur d'Alene, Idaho

Should you have questions, please contact (206) 444-2902.

**WSR 01-03-031**  
**NOTICE OF PUBLIC MEETINGS**  
**BATES TECHNICAL COLLEGE**

[Memorandum—January 4, 2001]

Pursuant to RCW 42.30.075, this letter will notify you of Bates Technical College board of trustees' regularly scheduled meetings for the year 2001.

The board of trustees of Bates Technical College regularly meets on the third Wednesday of each month except August. All meetings begin at 3 p.m.

Date (2001)	Location
January 17	Bates Technical College 1101 South Yakima Avenue Tacoma, WA 98405-4895 (Clyde Hupp Board Room)
February 21	Bates Technical College 1101 South Yakima Avenue Tacoma, WA 98405-4895 (Clyde Hupp Board Room)

March 21	Bates Technical College 1101 South Yakima Avenue Tacoma, WA 98405-4895 (Clyde Hupp Board Room)
April 18	Bates Technical College 1101 South Yakima Avenue Tacoma, WA 98405-4895 (Clyde Hupp Board Room)
May 16	Bates Technical College 1101 South Yakima Avenue Tacoma, WA 98405-4895 (Clyde Hupp Board Room)
June 20	Bates Technical College 1101 South Yakima Avenue Tacoma, WA 98405-4895 (Clyde Hupp Board Room)
July 18	Bates Technical College 1101 South Yakima Avenue Tacoma, WA 98405-4895 (Clyde Hupp Board Room)
September 19	Bates Technical College 1101 South Yakima Avenue Tacoma, WA 98405-4895 (Clyde Hupp Board Room)
October 17	Bates Technical College 1101 South Yakima Avenue Tacoma, WA 98405-4895 (Clyde Hupp Board Room)
November 21	Bates Technical College 1101 South Yakima Avenue Tacoma, WA 98405-4895 (Clyde Hupp Board Room)
December 19	Bates Technical College 1101 South Yakima Avenue Tacoma, WA 98405-4895 (Clyde Hupp Board Room)

**WSR 01-03-036**  
**NOTICE OF PUBLIC MEETINGS**  
**PARKS AND RECREATION**  
**COMMISSION**

[Memorandum—January 9, 2001]

The Washington State Parks and Recreation Commission's **Snowmobile Advisory Committee** has adopted the following schedule of regular meetings for 2001:

Date	Location
February 3, 2001	Sedro Woolley
July 27-29, 2001	Wenatchee

MISC.

The state Parks and Recreation Commission's **Winter Recreation (Sno-Park) Advisory Committee** has adopted the following schedule of regular meetings for 2001:

Date	Location
January 27, 2001	Glacier
August 3-5, 2001	Wenatchee

All Snowmobile Advisory Committee and Winter Recreation Advisory Committee meetings will begin 8 a.m. The meeting locations of the Snowmobile and the Winter Recreation Advisory Committees may be obtained by writing to Roxie Stancil, Washington State Parks and Recreation Commission, P.O. Box 42650, Olympia, WA 98504-2650 or by calling (360) 902-8552.

The public is welcome to attend all state Park and Recreation Commission Advisory Committee meetings. Meeting sites will be barrier free to the greatest extent feasible. The commission will provide braille or taped agenda items for the visually impaired and interpreters for those with hearing impairments, if a request is received at the appropriate address shown above at least ten working days in advance of the scheduled meeting date.

#### WSR 01-03-037

#### POLICY STATEMENT

#### WASHINGTON STATE LOTTERY

[Filed January 9, 2001, 3:04 p.m.]

The Washington State Lottery has recently adopted or revised the following policies:

#### **POL 110.554 - On-Line Drawing Contingencies (Revision)**

Added information on the process for if a burglar alarm activates at any time during the drawing process and what to do if a random number generator (used for conducting bonus drawings) fails.

Clarified that the generator only allows operation of one drawing machine at a time and some lighting; during a power failure, the drawings cannot be broadcast and the computer cannot be used. If the generator cannot be implemented during a power failure, the drawing coordinator may determine the drawings will be conducted using the disaster recovery process.

If the drawing studio VCR fails, the camera operator will use the back-up camera to record preair and postair drawings.

For daily game ball set rejects, clarified that if a set rejects due to being drawn seven or more times out of the first eight preair drawings, the alternate set replaces the rejected set. If a rejection is the result of the same three digit number appearing more than three times during the first eight preair drawings, or two or more times during the last four preair drawings, the external auditor determines which ball set the alternate set will replace.

Added a script that the broadcast station will use if a postair rejection occurs, resulting in delaying release of vali-

dated results. Also added language to include on the fax sheet to the media if delay occurs.

When a foul occurs, the broadcast station may not always air a new drawing for the later broadcast. If they cannot show the drawing, they will show a graphic of the official numbers and the LDO will ask them to read the designated script.

Numerous other minor changes throughout.

Signed 12/20/00.

#### **POL 110.558 - Bonus Drawings (for Consumers) (Revision)**

Clarifies that the lottery's information services division designee may run the population (a computerized process that determines the number of entries) during the work day. When they do, the process is not witnessed by an external auditor, but the beginning of the process is witnessed by a security designee.

If the numbers are being broadcast but are not broadcast to/from the broadcast station for any reason, the auditor also (in addition to the Lottery Drawing Official) verifies with the broadcast station, the numbers that will air.

Other minor edits/clarification/etc.

Signed 12/26/00.

#### **POL 110.559 - Bonus Drawings (for Retailers) (Revision)**

Clarified that the external auditor is witnessing the activities performed in the studio and vault only.

The PIO is not notified of retailer drawing fouls, unless the results are being broadcast.

Other minor edits/clarification/etc.

Signed 12/20/00.

#### **POL 130.015 - Evidence (New)**

This new policy ensures that evidence gathered in the course of lottery security-conducted investigations is documented and stored in a secure location until needed for a hearing, trial, etc. This method of storing evidence is also available to other managers or designees assigned to conduct internal investigations. The policy shows how the evidence is documented and secured, and outlines how long it is retained.

Signed 12/4/00.

#### **POL 130.016 - External Investigations (New)**

This policy establishes guidelines for the lottery's security staff to follow when conducting external investigations. (An external investigation is defined as an incident that security has reason to believe occurred outside of a lottery office or does not involve wrongdoing of a lottery employee.) The policy contains sections on determining an investigation will be conducted, time frames for conducting investigations, scope of investigation, conduct during an investigation, equipment used, conducting interviews, conflict of interest, maintaining the investigator's personal safety, credentials, subpoena of records, obtaining a search warrant, investigations involving other agencies, closing the investigation/determining action, and using/releasing information obtained.

Signed 12/4/00.

**POL 320.063 - \$250,000 Cash! Second Chance Drawing (Consumers and Retailers) (New)**

This new policy establishes guidelines for conducting a drawing to award prizes to consumers who validate their scratch tickets from game 324 by midnight January 5, 2001. If the prizes are claimed, the retailer who sold the ticket is also eligible to receive a prize.

Signed 10/16/00.

**POL 320.063 (Addendum) (New)**

This addendum memo details how regional and headquarters offices handle ticket stubs received for this promotion (\$250,000 Cash! Second Chance Drawing).

Signed 12/4/00.

**POL 320.064 - \$250,000 Cash! Retailer Promotion (New)**

This new policy establishes guidelines for awarding prizes to retailers for purchasing (activating) packs of instant game number 324 (\$250,000 Cash!) from November 13, 2000, through January 5, 2001.

Signed 10/16/00.

**POL 320.065 - "Mystery Shopper" Program (\$250,000 Cash!) (New)**

This policy establishes the process for rewarding retail clerks a \$1 scratch ticket for displaying point of sale materials relating to the \$250,000 Cash! Second Chance Drawing.

Signed 10/27/00.

**POL 320.066 - Lotto "Wild Ride" Bonus Drawing Promotion (New)**

From January 14 through 6:52 p.m.\* on March 10, 2001, consumers who purchase a single \$5 Lotto ticket will be entered into eight weekly drawings to receive \$50,000. The weekly winners will also receive entry into a grand prize drawing to receive either a 2001 Mercedes CLK 320 or a \$5,000 consolation prize.

\*Tickets sold between 6:52 p.m. on each Saturday of the promotion until beginning of sales the next day do not receive a bonus ticket.

Signed 12/5/00.

**POL 320.067 - "Mystery Shopper" Program ("Wild Ride")**

This policy establishes the process for rewarding retail clerks a \$1 scratch ticket for displaying point of sale materials relating to the "wild ride" promotion.

Signed 12/19/00.

**POL 410.006 - Maintaining Retailer Addresses (New)**

To ensure addresses maintained on lottery retailers are correct, complete and formatted to United States Postal Service standards, initial entry of retailer addresses is performed by the section that initially receives the address; updates are performed by those who use that type of address the most often. The policy identifies these responsibilities. Also, each

section will now run a report showing the changes that have been made to other addresses maintained on that retailer, along with addresses that have not been updated for that retailer, and determine whether changes are needed to the address(es) they maintain.

Signed 11/16/00.

**POL 420.022 - State Agency Rider (STAR) Pass Program (New)**

This new policy documents the process for distributing and collecting state agency rider (STAR) bus passes to/from lottery employees assigned to work in Thurston County. The policy includes a process for distributing passes, reporting lost passes, and retrieving passes from a terminating employee.

Signed 10/24/00.

To receive a copy of any of these policies, contact Becky Zopolis, Washington State Lottery, P.O. Box 43000, Olympia, WA 98504-3000, phone (360) 664-4816, fax (360) 664-4817.

January 8, 2001  
Becky L. Zopolis

**WSR 01-03-045**

**DEPARTMENT OF REVENUE**

[Filed January 10, 2001, 2:57 p.m.]

**Interim Audit Guideline 03.01 - Taxability of Credit Bureau Services.**

This announcement of the adoption of this interpretive statement is being published in the Washington State Register pursuant to the requirements of RCW 34.05.230(4).

The Department of Revenue has adopted the following Interim Audit Guideline.

Interim Audit Guideline 03.01 - Instructs department personnel on the taxability of credit bureau services. This guideline also provides instructions to audit field personnel on the proper tax treatment of buyers of credit bureau services where the service provider has not collected retail sales tax.

Request for copies of this guideline may be directed to Roseanna Hodson, Legislation and Policy Division, P.O. Box 47467, Olympia, WA 98504-7467.

Claire Hesselholt  
Policy Counsel

**WSR 01-03-046**

**NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF HEALTH**

[Memorandum—January 8, 2001]

The Chemical Dependency Professional Advisory Committee has set their open public meeting dates for the year 2001. They are:

March 9, 2001	Committee meeting	Olympia
June 15, 2001	Committee meeting	Olympia
September 7, 2001	Committee meeting	Olympia
December 14, 2001	Committee meeting	Olympia

**BOARD OF TRUSTEES  
2001 REGULAR MEETING SCHEDULE  
Approved 12-5-00**

The board of trustees meetings begin with a worksession or reception at 12 noon. Regular meeting agenda sessions will begin at 1:00 p.m. **Exceptions to worksession start times are noted below.** Dates and locations of the meetings are noted below.

Date	Location
January 16	Holly Park (SSCC) 7058 32nd Avenue South Seattle, WA 98118
February 20	North Seattle Community College 9600 College Way North Seattle, WA 98103
March 13 1:00 p.m.	Seattle Central Community College 1701 Broadway Seattle, WA 98122
April 17	Duwamish Branch (SSCC) 6770 East Marginal Way South Seattle, WA 98108
May 15	Sand Point Education Center (NSCC) 6208 60th Avenue N.E. Seattle, WA 98115
June 19	Seattle Vocational Institute (SCCC) 2120 South Jackson Street Seattle, WA 98144
July 17	South Seattle Community College 6000 16th Avenue S.W. Seattle, WA 98106
August	NO MEETING
September 11 1:00 p.m.	SCCD (Siegal Center) 1500 Harvard Avenue Seattle, WA 98122
October 2	North Seattle Community College 9600 College Way North Seattle, WA 98103
November 6	Seattle Maritime Academy (SCCC) 4455 Shilshole Avenue N.W. Seattle, WA 98107
December 4	SCCD (Siegal Center) 1500 Harvard Avenue Seattle, WA 98122

**WSR 01-03-047**

**NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF AGRICULTURE  
(Red Raspberry Commission)  
[Memorandum—January 8, 2001]**

The Washington Red Raspberry Commission has set the following dates for their meetings in 2001. Formal adoption of the meeting schedule occurred at the December 4, 2000, board meeting.

- February 7th
- March 14th
- May 2nd
- September 12th
- November 14th
- December 3rd
- Annual Meeting on December 4
- December 5th

**WSR 01-03-048**

**RULES COORDINATOR  
DEPARTMENT OF  
RETIREMENT SYSTEMS  
[Filed January 10, 2001, 3:02 p.m.]**

I am the new rules coordinator for the Department of Retirement Systems. Please change the phone number you have listed for me to (360) 664-7291. If you need my e-mail address, it is merryk@drs.wa.gov.

Merry A. Kogut

**WSR 01-03-050**

**NOTICE OF PUBLIC MEETINGS  
SEATTLE COMMUNITY COLLEGES  
[Memorandum—January 5, 2001]**

Revised Regular Board of Trustees Meeting Schedule - 2001  
Seattle Community College District VI

The Seattle Community College District VI board of trustees has approved the regular meeting schedule below for 2001.

The schedule mailed on December 6, 2000, had inadvertently left off the month of December.

MISC.

**WSR 01-03-051****INTERPRETIVE OR POLICY STATEMENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

[Filed January 11, 2001, 11:27 a.m.]

## DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Final Siting Criteria for Secure Community Less Restrictive Alternative Housing.

Subject: Special commitment center secure community less restrictive alternative (LRA) housing.

Effective Date: November 17, 2000.

Document Description: Siting criteria for future secure community less restrictive alternative (LRA) housing units to be occupied by no more than three special commitment center residents on court-ordered conditional release.

To receive a copy of the interpretive or policy statement, contact Beverly Wilson, P.O. Box 45322, Olympia, WA 98504, phone (360) 902-8257, fax (360) 902-8497, e-mail wilsonbk2@dshs.wa.gov.

January 10, 2001  
Beverly K. Wilson

**WSR 01-03-053****INTERPRETIVE OR POLICY STATEMENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

[Filed January 11, 2001, 4:04 p.m.]

## DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 00-83 MAA.

Subject: Year 2001 changes and additions to CPT and HCPCs—Surgery codes.

Effective Date: January 1, 2001.

Document Description: The purpose of this memorandum is to inform ambulatory surgery centers (ASC) that effective with dates of service on or after January 1, 2001, MAA will begin using the Year 2001 CPT and HCPCS Level II code additions. New ASC codes and groupings are included in this memorandum.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, DSHS, Medical Assistance Administration, Division of Program Support, P.O. Box 45530, Olympia, WA 98504, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov> (click on Numbered Memorandum link), TDD 1-800-848-5429, fax (360) 586-9727, e-mail <mailto:sullikm@dshs.wa.gov>.

January 9, 2001  
Ann Myers, Acting Manager  
Regulatory Improvement Project

**WSR 01-03-054****INTERPRETIVE OR POLICY STATEMENT,  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

[Filed January 11, 2001, 4:06 p.m.]

## DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 00-84 MAA.

Subject: Year 2001 changes and additions to CPT and HCPCs—Blood banks.

Effective Date: January 1, 2001.

Document Description: The purpose of this memorandum is to inform blood banks that effective with dates of service on or after January 1, 2001, MAA will begin using the Year 2001 CPT and HCPCS Level II code additions. Maximum allowable fees for the Year 2001 additions are also included.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, DSHS, Medical Assistance Administration, Division of Program Support, P.O. Box 45530, Olympia, WA 98504, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov> (click on Numbered Memorandum link), TDD 1-800-848-5429, fax (360) 586-9727, e-mail [mailto:sullikm@dshs.wa.gov](mailto:mailto:sullikm@dshs.wa.gov).

January 9, 2001  
Ann Myers, Acting Manager  
Regulatory Improvement Project

**WSR 01-03-055****INTERPRETIVE OR POLICY STATEMENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

[Filed January 11, 2001, 4:07 p.m.]

## DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 00-85 MAA.

Subject: Coverage for lunelle and emergency contraception pills (ECP).

Effective Date: January 1, 2001.

Document Description: The purpose of this memorandum is to inform family planning/STD clinics that MAA began paying for injectable contraception—Lunelle, effective with dates of service on or after November 1, 2001, and changed the way ECP must be billed, effective December 1, 2000. Maximum allowable fees for the Year 2001 additions are also included.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, DSHS, Medical Assistance Administration, Division of Program Support, P.O. Box 45530, Olympia, WA 98504, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov> (click on Numbered Memorandum link), TDD 1-800-

848-5429, fax (360) 586-9727, e-mail [mailto:sullikm@dshs.wa.gov](mailto:mailto:sullikm@dshs.wa.gov).

January 9, 2001  
Ann Myers, Acting Manager  
Regulatory Improvement Project

phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov> (click on Numbered Memorandum link), TDD 1-800-848-5429, fax (360) 586-9727, e-mail [mailto:sullikm@dshs.wa.gov](mailto:mailto:sullikm@dshs.wa.gov).

January 9, 2001  
Ann Myers, Acting Manager  
Regulatory Improvement Project

**WSR 01-03-056**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed January 11, 2001, 4:09 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 00-86 MAA.

Subject: New CPT procedure code billable for optometrists.

Effective Date: January 1, 2001.

Document Description: The purpose of this memorandum is to inform optometrists that effective with dates of service on or after January 1, 2001, optometrists may bill CPT code 99172.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, DSHS, Medical Assistance Administration, Division of Program Support, P.O. Box 45530, Olympia, WA 98504, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov> (click on Numbered Memorandum link), TDD 1-800-848-5429, fax (360) 586-9727, e-mail [mailto:sullikm@dshs.wa.gov](mailto:mailto:sullikm@dshs.wa.gov).

January 9, 2001  
Ann Myers, Acting Manager  
Regulatory Improvement Project

**WSR 01-03-057**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed January 11, 2001, 4:10 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 00-87 MAA.

Subject: Year 2001 changes and additions to CPT and HCPCS—Outpatient hospitals.

Effective Date: January 1, 2001.

Document Description: The purpose of this memorandum is to inform outpatient hospitals that effective with dates of service on or after January 1, 2001, MAA will begin using the Year 2001 CPT and HCPCS Level II code additions. Maximum allowable fees for the Year 2001 additions are also included.

To receive a copy of the interpretive or policy statement contact Kevin Sullivan, Regulatory Improvement Coordinator, DSHS, Medical Assistance Administration, Division of Program Support, P.O. Box 45530, Olympia, WA 98504,

**WSR 01-03-058**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed January 11, 2001, 4:12 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 00-88 MAA.

Subject: Year 2001 changes and additions to CPT and HCPCS—Therapy.

Effective Date: January 1, 2001.

Document Description: The purpose of this memorandum is to inform neurodevelopmental center/occupational therapists/speech therapists/audiology-speech language pathologists that effective with dates of service on or after January 1, 2001, MAA will begin using the Year 2001 CPT and HCPCS Level II code additions. Maximum allowable fees for the Year 2001 additions are also included.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, DSHS, Medical Assistance Administration, Division of Program Support, P.O. Box 45530, Olympia, WA 98504, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov> (click on Numbered Memorandum link), TDD 1-800-848-5429, fax (360) 586-9727, e-mail [mailto:sullikm@dshs.wa.gov](mailto:mailto:sullikm@dshs.wa.gov).

January 9, 2001  
Ann Myers, Acting Manager  
Regulatory Improvement Project

**WSR 01-03-063**  
**NOTICE OF PUBLIC MEETINGS**  
**OFFICE OF THE GOVERNOR**

(Clemency and Pardons Board)

[Memorandum—January 12, 2001]

The Washington State Clemency and Pardons Board hereby files with the code reviser the following schedule of its regular meetings for 2001:

The March 2, June 8, September 7, and December 7, 2001, meetings of the Clemency and Pardons Board will be held in the John A. Cherberg Building, Hearing Room 4, Olympia, Washington, starting at 10:00 a.m.

MISC.

**WSR 01-03-064**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**NATURAL RESOURCES**  
 (Board of Natural Resources)  
 [Memorandum—January 10, 2001]

Special Meeting for the Board of Natural Resources

Date	Time	Location
January 16, 2001	9:00 a.m.	NRB - Room 411

A special meeting of the Board of Natural Resources will be held in Room 411 of the Natural Resources Building in Olympia, Washington, on January 16, 2001. The purpose of the meeting is to elect the chair and vice chair, advise and consent re: New supervisors, to discuss the amount of bonds for the new supervisors, and to review the organization rule of the Department of Natural Resources.

The meeting will begin at 9:00 a.m. Some members may be participating via telephone.

Please feel free to call (360) 902-1005 if you have any questions.

**WSR 01-03-067**  
**AGENDA**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 [Filed January 12, 2001, 2:39 p.m.]

DSHS SEMI-ANNUAL RULE-MAKING AGENDA

Shown below is the Department of Social and Health Services' Semi-Annual Rule-Making Agenda, by administration, for January 1, 2001, through June 30, 2001.

There may be more rule-making activity, not on the agenda, as a result of the on-going rule reviews being done according to Executive Order 97-02.

**DEPARTMENT OF SOCIAL AND HEALTH SERVICES**  
**SEMI-ANNUAL RULE-MAKING AGENDA FOR 1/1/01 THROUGH**  
**6/30/01**

**AGING AND ADULT SERVICES ADMINISTRATION**

WAC Chapter or Section Number	Purpose of rule being developed or amended.
388-15-650 through 388-15-662	Revise adult day health/care eligibility standards; include a grievance process for adult day services and to make other changes, as needed. Revised sections will be reorganized and moved into chapter 388-71 WAC.
388-15-205	Comply with the Governor's Executive Order 97-02 on regulatory improvement; clarify the requirement that long-term care services begin upon the date that the client approves and signs the service plan.

388-71	Develop specific program requirements for adults (over age eighteen) requesting services through the private duty nursing program.
388-71-0120, 388-71-0405, 388-71-0420, 388-71-0425, 388-71-0430, 388-71-0445, 388-71-0465, 388-71-0470, 388-71-0480	Due to budget reductions, the department anticipates restricting the Chore program to only employed disabled clients. The program would not be available to other clients.
388-71-0420	Clarify where COPES services can be provided.
388-71-500 through 388-71-560	Further define provider qualifications and to include home care agencies in these qualifications. Amend rules to reflect legislation, enrolled SSHB 2637, passed in the 1999/2000 biennium.
388-76-61550	Extend the timeframe for adult family home providers to develop a negotiated care plan.
388-76-640	New requirements from chapter 246-888 WAC, Medication assistance, were recently established by the Department of Health, Board of Pharmacy. This will ensure that adult family home providers are following current rules governing medication protocols for residents.
388-78A	Comply with the Governor's Executive Order 97-02 on Regulatory Improvement; implement change mandated by ESHB 2380; update rules to comply with other statutes: Training, reporting, medication assistance, self-directed care, and nurse delegation.
388-78A, 388-110, 388-76, 388-71	New law requires the department to adopt rules on training for residential and in-home providers by March 1, 2002.
388-79	To modify existing rules on guardianship fees to establish a fixed maximum fee charged Medicaid recipients. To preclude allowance of retroactive guardianship fees prior to the Medicaid recipient's eligibility for long-term care services.
388-96-010, 388-96-218, 388-96-559, 388-96-585, 388-96-714, 388-96-723, 388-96-724, 388-96-708, 388-96-710, 388-96-714, 388-96-718, 388-96-740, 388-96-776, 388-96-901 etc. New WAC 388-96-802 and 388-96-803	Sections are being revised in anticipation of three year rate rebasing. The rules will need to be regularly adopted effective July 1, 2001.
388-98 and 388-97	Being reviewed to comply with the Governor's Executive Order 97-02 on Regulatory Improvement and merge chapter 388-98 WAC into chapter 388-97 WAC.
388-XX	Rules to implement the four level payment system for home and community residential care. Decision about whether to use an existing chapter or a new one is pending. The rules will need to be regularly adopted effective July 1, 2001.

MISC.



**CHILDREN'S ADMINISTRATION**

WAC Chapter or Section Number	Purpose of rule being developed or amended.
388-15	Update child protective services rules to reflect current federal and state law.
388-25, 388-27, 388-32	Rewrite and update rules for child welfare services including foster care, adoption and adoption support and services to prevent out-of-home placement and achieve family reconciliation.
388-39A	To explain the process Children's Administration uses to resolve complaints and grievances of clients, foster parents, and other affected individuals.
388-146	Clarify the requirements for background checks for homes and facilities licensed by Children's Administration and the Division of Developmental Disabilities.
388-148	Clarify the language of the licensing requirements for foster homes, group care programs/facilities and child placing agencies. Incorporate changes in state and federal law.
388-155	Family child day care licensing requirements. Rewrite the chapter according to the principles of EO 97-02 and other minor housekeeping changes.
388-160	Update and clarify the licensing requirements for overnight youth shelters.

**ECONOMIC SERVICES ADMINISTRATION**

WAC Chapter or Section Number	Purpose of rule being developed or amended.
388-290	To expand childcare eligibility and clarify existing rules.
388-310-0800, 388-310-1800 and related.	To clarify correlation between support services and post-employment for post TANF clients.
388-310-0900, 388-310-1000 and 388-310-1050	To implement rules for WorkFirst internships, practicums, and seasonal employment.
388-400-0020	To remove references to the obsolete GAS program.
388-400-0030 and 388-400-0035	To update refugee assistance eligibility requirements.
388-410-0020, 388-410-0025 and 388-410-0030	To update and clarify regulations regarding food assistance overpayments.
388-412-0025, 388-412-0040, 388-412-0045 and related.	To include additional information on electronic benefit transfer and to clarify policy.
388-414-0001	To clarify when a family can be categorically eligible for food assistance.
388-442-0010	To add information on eligibility for TANF/SFA or food assistance if client has a drug felony conviction.
388-450-0045	To add guidelines for the treatment of income from the Workforce Investment Act.
388-450-0070	To amend child's earned income rule.
388-450-0190	To change the excess shelter cost deduction in the food assistance program.
388-458-All	To clarify the notice requirement policy.

388-478-0055	To pass along federal cost of living adjustment for SSI program and to adjust state supplement amounts.
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**HEALTH AND REHABILITATIVE SERVICES ADMINISTRATION**

WAC Chapter or Section Number	Purpose of rule being developed or amended.
388-825-020 and 388-825-205	To update and clarify rules for the family support opportunity program.
388-860, 388-861, and 388-862  Formerly chapters 275-54, 275-55, 275-57	Juvenile involuntary treatment, voluntary admission-involuntary commitment, treatment and/or evaluation of mentally ill persons, and community mental health programs. All three chapters are being integrated into one chapter to eliminate duplication, inconsistency and conflict, and to use principles of clear writing.
388-880	Rules for the special commitment center pertaining to oversight and program standards, treatment planning for court-committed program residents and record retention.

**JUVENILE REHABILITATION ADMINISTRATION**

**No rule making planned for the period**

**MEDICAL ASSISTANCE ADMINISTRATION**

WAC Chapter or Section Number	Purpose of rule being developed or amended.
388-XXX-XXXX	Incorporate federal HIPPA regulations
388-536	Federally qualified health centers
388-545-0100	Medical nutrition and infusion therapy
388-XXX-XXXX	Nutritional counseling
388-538	Managed care
388-545-XXXX	Exceptional therapies
388-551-2000	Home health services

**MANAGEMENT SERVICES ADMINISTRATION**

WAC Chapter or Section Number	Purpose of rule being developed or amended.
388-02	Phase II - continuing to update and consolidate, as much as possible, DSHS hearing rules into a single chapter.

**OFFICE OF THE SECRETARY/DEPUTY SECRETARY**

WAC Chapter or Section Number	Purpose of rule being developed or amended.
388-02-0087	Vendor dispute hearing rights
388-XX	Vendor billing time limitations

Kelly Cooper  
Rules Coordinator

MISC.

**WSR 01-03-068**  
**NOTICE OF PUBLIC MEETINGS**  
**COMMUNITY ECONOMIC**  
**REVITALIZATION BOARD**

[Memorandum—January 11, 2001]

**Change of Meeting Location for January 18, 2001 CERB Meeting**

The Community Economic Revitalization Board (CERB) will change the meeting location for the January 18, 2001, meeting only. The new meeting location for the January meeting is the Red Lion Hotel Seattle Airport, 205 Strander Boulevard, Seattle, WA 98188. The CERB meeting will be held in the Banyon Room. The meeting will begin at 9:00 a.m.

**WSR 01-03-069**  
**INTERPRETIVE STATEMENT**  
**DEPARTMENT OF HEALTH**

[Filed January 12, 2001, 3:28 p.m.]

**Interpretative Statement Summary**

**Title of Interpretive Statement:** Approved backflow prevention assemblies (BPAs).

**Issuing Entity:** Alan Rowe, Operations Manager, Division of Drinking Water.

**Description of Subject Matter:** The Department of Health will accept, on a case-by-case basis, BPAs approved by third parties other than the University of Southern California Foundation for Cross-Connection Control and Hydraulics Research (USC), if conditions are met. The alternate BPA evaluation procedure must include a laboratory evaluation phase and a mandatory one-year field evaluation phase. The third-party evaluation protocol and the requirements to maintain/renew approval must be at least as stringent as USC's.

**Division Contact:** Ethan Moseng, Division of Drinking Water, P.O. Box 47829, Olympia, WA 98504-7829, (360) 236-3562.

**Effective Date:** December 7, 2000.

Alan Rowe

**WSR 01-03-071**  
**OFFICE OF THE GOVERNOR**

[Filed January 15, 2001, 1:52 p.m.]

**NOTICE OF APPEAL**  
**(RCW 34.05.330(3))**

Pursuant to RCW 34.05.330(3), you are hereby notified for publication in the Washington State Register that:

On December 19, 2000 the Governor received an appeal to the denial by the Department of Labor and Industries of a request to repeal WAC 296-19A, dated December 16, 2000, filed by Samuel P. Harvey.

DATED: January 15, 2001

Everett H. Billingslea  
 General Counsel to the Governor

**WSR 01-03-073**  
**NOTICE OF PUBLIC MEETINGS**  
**EASTERN WASHINGTON UNIVERSITY**

[Memorandum—January 16, 2001]

Eastern Washington University  
**BOARD OF TRUSTEES**

January 16, 2001  
 9:30 - 10:15 a.m.

Showalter Hall, Room 214  
 Cheney, Washington 99004

**ANNOUNCEMENT**

**of**  
**Special Meeting by Conference Call**

The board of trustees will participate in a conference call meeting on Tuesday, January 16, 2001, at 9:30 a.m. The purpose of the call is to discuss Eastern's legislative initiative to have authority to offer a doctorate in physical therapy (DPT). Board members will have the opportunity to offer their views and suggestions. A speaker phone will be available in the President's Office, 214 Showalter Hall, for any members of the public who wish to be present.

**WSR 01-03-074**  
**NOTICE OF PUBLIC MEETINGS**  
**COUNTY ROAD**  
**ADMINISTRATION BOARD**

[Memorandum—January 12, 2001]

**COUNTY ROAD ADMINISTRATION BOARD**

- MEETING NOTICE: April 12, 2001  
 County Road Administration Board  
 2404 Chandler Court S.W., Suite 240  
 Olympia, WA 98504  
 1:00 p.m. to 5:00 p.m.
- PUBLIC HEARING: April 12, 2001  
 County Road Administration Board  
 2404 Chandler Court S.W., Suite 240  
 Olympia, WA 98504  
 2:00 p.m.
- MEETING NOTICE: April 13, 2001  
 County Road Administration Board  
 2404 Chandler Court S.W., Suite 240  
 Olympia, WA 98504  
 9:00 a.m. to 12:00 p.m.

Individuals requiring reasonable accommodation may request written materials in alternative formats, sign language interpreters, physical accessibility accommodations, or other reasonable accommodation, by contacting Cheryl Hei-

MISC.

nemeyer at (360) 753-5989, hearing and speech impaired persons can call 1-800-833-6384.

If you have questions, please contact (360) 753-5989.

of Washington, 4014 University Way N.E., Seattle, WA 98105-6302, campus mail Box 355509, phone (206) 543-9199, fax (206) 616-6294, or e-mail adminpro@u.washington.edu.

**WSR 01-03-075**  
**NOTICE OF PUBLIC MEETINGS**  
**WASHINGTON STATE LIBRARY**  
 (Library Council of Washington)  
 [Memorandum—January 12, 2001]

**LIBRARY COUNCIL OF WASHINGTON 2000 MEETING DATES**

The Library Council of Washington will conduct their next meeting on:

**DATE:** March 1, 2001  
**TIME:** 9:30 - 3:30 p.m.  
**SUBJECT:** Library Council of Washington meeting  
**LOCATION:** Department of Labor and Industries  
 7273 Linderson Way  
 Tumwater, WA 98504

**WSR 01-03-092**  
**AGENDA**  
**UNIVERSITY OF WASHINGTON**  
 [Filed January 18, 2001, 12:12 p.m.]

**The University of Washington's**  
**Semiannual Agenda for Rules Under Development**  
**(Per RCW 34.05.314)**  
**January 2001**

1. Rule making continues for chapters 478-250 WAC, Governing indexing of public records and chapter 478-276 WAC, Governing access to public records, in the first half of 2001.
2. Rule making continues for chapter 478-355 WAC, Small works roster, in the first half of 2001.
3. Rule making continues for chapter 478-136 WAC, Use of University of Washington facilities, in the first half of 2001.
4. Rule making continues for chapter 478-116 WAC, Parking and traffic rules for the University of Washington, in the first half of 2001.
5. Rule making for new rules concerning parking and traffic control at UW Bothell is scheduled for the first half of 2001.
6. Repeal of a rule in chapter 478-156 WAC, Rules for the University of Washington residence halls and family housing apartments, is scheduled for the first half of 2001.
7. Rule review for chapter 478-124 WAC, General conduct code for the University of Washington, is rescheduled for the second half of 2001.

For more information concerning the above rules under review or development contact: Rebecca Goodwin Dardorff, Director, Administrative Procedures Office, University

**WSR 01-03-094**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 [Filed January 18, 2001, 3:26 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

**Document Title:** Numbered Memorandum 01-02 MAA.  
**Subject:** Hospital room rates.  
**Effective Date:** January 1, 2001.

**Document Description:** The purpose of this memorandum is to inform hospital providers that **effective January 1, 2001**, MAA no longer accepts room rate change forms (DSHS 13-687 4/1988) to update the maximum amount of reimbursement for room stay revenue codes. MAA now uses the cap review process outlined in this memorandum.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, DSHS, Medical Assistance Administration, Division of Program Support, P.O. Box 45530, Olympia, WA 98504, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov> (click on Numbered Memorandum link), TDD 1-800-848-5429, fax (360) 586-9727, e-mail [mailto:sullikm@dshs.wa.gov](mailto:mailto:sullikm@dshs.wa.gov).

January 16, 2001  
 Ann Myers, Acting Manager  
 Regulatory Improvement Project

**WSR 01-03-101**  
**NOTICE OF PUBLIC MEETINGS**  
**WHATCOM COMMUNITY COLLEGE**  
 [Memorandum—January 19, 2001]

2001 Meeting Schedule of the Board of Trustees  
 Second Tuesday of the Month at 2:00 p.m.  
 Board Room in the Laidlaw Center

Whatcom Community College  
 237 West Kellogg Road  
 Bellingham, WA 98226

January 9  
 February 6 (first Tuesday)  
 March 13  
 April 10  
 May 8  
 June 12  
 July 10

August (no meeting)  
 September 11  
 October 9  
 November 13  
 December 11

**WSR 01-03-104**  
**RULES COORDINATOR**  
**DEPARTMENT OF TRANSPORTATION**

[Filed January 19, 2001, 1:47 p.m.]

In accordance with RCW 34.05.312, the new rules coordinator for the Department of Transportation is Cathy Downs. This appointment is to become effective on January 16, 2001. Cathy may be contacted at 705-7994 (fax 705-6808) or Department of Transportation, Mailstop 47410. Her Internet address is downsc@wsdot.wa.gov.

Sid Morrison  
 Secretary

**WSR 01-03-108**  
**DEPARTMENT OF HEALTH**  
 (Board of Pharmacy)

[Filed January 22, 2001, 12:52 p.m.]

**Reviser's note:** The following material has *not* been adopted under the Administrative Procedure Act, chapter 34.05 RCW, but has been filed in the office of the code reviser and is published in the Register exactly as filed.

WASHINGTON STATE BOARD OF PHARMACY  
 MEMORANDUM

DATE: December 5, 2000  
 TO: Dennis W. Cooper  
 Office of the Code Reviser  
 FROM: C. A. Leon Alzola  
 Board Chair  
 SUBJECT: WAC 246-887-100  
 Adding Gamma Hydroxybutyric Acid

RCW 69.50.201 (2)(e) allows the Board of Pharmacy to adopt DEA scheduling orders without the need for issuance of a Notice of Proposed Rule under RCW 34.05. Notice of proposed rule making was published in the September 6, 2000 Washington State Register, WSR 00-17-178. No objection to the proposed rule was received. On October 13, 2000, the Board adopted the rule.

**AMENDATORY SECTION** (Amending WSR 94-08-098, filed 4/6/94, effective 5/7/94)

**WAC 246-887-100 Schedule I.** The board finds that the following substances have high potential for abuse and have no accepted medical use in treatment in the United

States or that they lack accepted safety for use in treatment under medical supervision. The board, therefore, places each of the following substances in Schedule I.

(a) The controlled substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name, are included in Schedule I.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);
- (2) Acetylmethadol;
- (3) Allylprodine;
- (4) Alphacetylmethadol; [(except for levo-alpha-cetylmethadol - also known as levo-alpha-acetylmethadol, levomethadyl acetate or LAAM);]
- (5) Alphameprodine;
- (6) Alphamethadol;
- (7) Alpha-methylfentanyl (N-[1-alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
- (8) Benzethidine;
- (9) Betacetylmethadol;
- (10) Betameprodine;
- (11) Betamethadol;
- (12) Betaprodine;
- (13) Clonitazene;
- (14) Dextromoramide;
- (15) Diampromide;
- (16) Diethylthiambutene;
- (17) Difenoxin;
- (18) Dimenoxadol;
- (19) Dimepheptanol;
- (20) Dimethylthiambutene;
- (21) Dioxaphetyl butyrate;
- (22) Dipipanone;
- (23) Ethylmethylthiambutene;
- (24) Etonitazene;
- (25) Etoxadine;
- (26) Furethidine;
- (27) Gamma-hydroxybutyric Acid (other names include: GHB);
- (28) Hydroxypethidine;
- ~~((28))~~ (29) Ketobemidone;
- ~~((29))~~ (30) Levomoramide;
- ~~((30))~~ (31) Levophenaclymorphan;
- ~~((31))~~ (32) 3-Methylfentanyl (N-[3-Methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
- ~~((32))~~ (33) Morpheridine;
- ~~((33))~~ (34) MPPP (1-Methyl-4-phenyl-4-propionoxy-piperidine);
- ~~((34))~~ (35) Noracymethadol;
- ~~((35))~~ (36) Norlevorphanol;
- ~~((36))~~ (37) Normethadone;
- ~~((37))~~ (38) Norpipanone;

- ((38)) (39) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- ((39)) (40) Phenadoxone;
- ((40)) (41) Phenampromide;
- ((41)) (42) Phenomorphan;
- ((42)) (43) Phenoperidine;
- ((43)) (44) Piritramide;
- ((44)) (45) Proheptazine;
- ((45)) (46) Propерidine;
- ((46)) (47) Propiram;
- ((47)) (48) Racemoramide;
- ((48)) (49) Tilidine;
- ((49)) (50) Trimeperidine.

(c) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine (except hydrochloride salt);
- (11) Heroin;
- (12) Hydromorphanol;
- (13) Methyldesorphine;
- (14) Methyldihydromorphine;
- (15) Morphine methylbromide;
- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;
- (18) Myrophine;
- (19) Nicocodeine;
- (20) Nicomorphine;
- (21) Normorphine;
- (22) Pholcodine;
- (23) Thebacon.

(d) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of paragraph (d) of this section, only, the term "isomer" includes the optical, position, and geometric isomers):

- (1) 4-bromo-2,5-dimethoxy-amphetamine: Some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA;
- (2) 2,5-dimethoxyamphetamine: Some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA;
- (3) 2,5-dimethoxy-4-ethylamphetamine (DOET)

- (4) 4-methoxyamphetamine: Some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine, PMA;
- (5) 5-methoxy-3,4-methylenedioxy-amphetamine;
- (6) 4-methyl-2,5-dimethoxy-amphetamine: Some trade and other names: 4-methyl-2,5-dimethoxy-a-methylphenethylamine; "DOM"; and "STP";
- (7) 3,4-methylenedioxy amphetamine;
- (8) 3,4-methylenedioxymethamphetamine (MDMA);
- (9) 3,4,5-trimethoxy amphetamine;
- (10) Bufotenine: Some trade or other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;
- (11) Diethyltryptamine: Some trade or other names: N,N-Diethyltryptamine; DET;
- (12) Dimethyltryptamine: Some trade or other names: DMT;
- (13) Ibogaine: Some trade or other names: 7-Ethyl-6,6 beta,7,8,9,10,12,13,-octahydro-2-methoxy-6,9methano-5H-pyndo (1',2':1,2) azepino (5,4-b) indole; Tabernanthe iboga;
- (14) Lysergic acid diethylamide;
- (15) Marihuana;
- (16) Mescaline;
- (17) Parahexyl-7374; some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo[b,d]pyran; synhexyl;
- (18) Peyote, meaning all parts of the plant presently classified botanically as *Lophophora Williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or extracts; (interprets 21 USC § 812 (c), Schedule I (c)(12))
  - (19) N-ethyl-3-piperidyl benzilate;
  - (20) N-methyl-3-piperidyl benzilate;
  - (21) Psilocybin;
  - (22) Psilocyn;
  - (23) Tetrahydrocannabinols, synthetic equivalents of the substances contained in the plant, or in the resinous extracts of *Cannabis*, sp., and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:
    - (i) Delta 1 - cis - or transtetrahydrocannabinol, and their optical isomers, excluding tetrahydrocannabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the United States Food and Drug Administration;
    - (ii) Delta 6 - cis - or transtetrahydrocannabinol, and their optical isomers;
    - (iii) Delta 3,4 - cis - or transtetrahydrocannabinol, and its optical isomers;
 (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)
  - (24) Ethylamine analog of phencyclidine: Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;

(25) Pyrrolidine analog of phencyclidine: Some trade or other names: 1-(1-phencyclohexyl)pyrrolidine; PCPy; PHP;

(26) Thiophene analog of phencyclidine: Some trade or other names: 1-(1-[2-thenyl]-cyclohexyl)-piperidine; 2-thienyl analog of phencyclidine; TPCP; TCP;

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(i) Mecloqualone;

(ii) Methaqualone.

(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(i) Cathinone (also known as 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone)

(ii) Fenethylamine;

(iii) N-ethylamphetamine;

(iv) 4-methylaminorex;

(v) N,N-dimethylamphetamine.

**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.

### WSR 01-03-109

#### INTERPRETIVE STATEMENT DEPARTMENT OF HEALTH

[Filed January 22, 2001, 12:53 p.m.]

#### NOTICE OF ADOPTION OF INTERPRETIVE STATEMENT

**Title:** May a registered nurse, working in a school setting, delegate the task of injection of glucagons to a student in the event of severe hypoglycemia?

**Issuing Entity:** Washington State Nursing Care Quality Assurance Commission.

**Subject:** The Nursing Commission issued an advisory opinion in response to the request from Gary Olson, Evergreen School District.

**Effective Date:** November 17, 2000.

**Contact Person:** Markay Newton, Department of Health, Nursing Care Commission, P.O. Box 47864, Olympia, WA 98504-7864, (360) 236-4724.

### WSR 01-03-110

#### POLICY STATEMENT DEPARTMENT OF HEALTH

[Filed January 22, 2001, 12:54 p.m.]

#### NOTICE OF ADOPTION OF POLICY STATEMENT

**Title:** Compensation for Commission Duties.

**Issuing Entity:** Medical Quality Assurance Commission.

**Subject Matter:** This policy was adopted to assist in setting the criteria to which commission members will be reimbursed payroll for time spent in relation to commission work.

**Effective Date:** October 6, 2000.

**Contact Person:** Beverly A. Teeter, Health Services Consultant, Department of Health, Medical Quality Assurance Commission, 1300 S.E. Quince Street, P.O. Box 47866, Olympia, WA 98504-7866, (360) 236-4788.

### WSR 01-03-111

#### INTERPRETIVE STATEMENT DEPARTMENT OF HEALTH

[Filed January 22, 2001, 12:55 p.m.]

#### NOTICE OF ADOPTION OF INTERPRETIVE STATEMENT

**Title:** Is it within the scope of practice for ARNP's to evaluate and treat work-related injuries in adults?

**Issuing Entity:** Washington State Nursing Care Quality Assurance Commission.

**Subject:** The Nursing Commission issued an advisory opinion in response to the request from Nick Mason, ARNP.

**Effective Date:** November 17, 2000.

**Contact Person:** Markay Newton, Department of Health, Nursing Care Commission, P.O. Box 47864, Olympia, WA 98504-7864, (360) 236-4724.

### WSR 01-03-112

#### POLICY STATEMENT DEPARTMENT OF HEALTH

[Filed January 22, 2001, 12:55 p.m.]

#### NOTICE OF ADOPTION OF POLICY STATEMENT

**Title:** Prescribing Medication via the Internet.

**Issuing Entity:** Medical Quality Assurance Commission.

**Subject:** The Medical Quality Assurance Commission has adopted a position that the standard of medical practice in the state of Washington requires a physician, when prescribing medication, to (1) verify that the person requesting the medication is in fact who he or she claims to be; (2) establish a diagnosis through the use of accepted medical practices such as a patient interview, physical examination, and appropriate ancillary testing; (3) discuss with the patient the diagnosis and the evidence for it, as well as the risks and benefits of various treatment options; (4) ensure availability of the physician to review the course and efficacy of the treatment

to assess therapeutic outcome; and (5) maintain a contemporaneous medical record that is readily available to the patient and to other health care professionals. The commission recognizes exceptions in certain circumstances such as emergency, public health, or cross-coverage situations. A physician who prescribes medication based solely on electronic communication via the Internet does not meet the standard of medical practice above. The commission considers this practice unprofessional conduct pursuant to RCW 18.130.180(4), and subjects the physician to disciplinary action.

Effective Date: October 6, 2000.

Contact Person: Beverly A. Teeter, Health Services Consultant, Department of Health, Medical Quality Assurance Commission, 1300 S.E. Quince Street, P.O. Box 47866, Olympia, WA 98504-7866, (360) 236-4788.

**WSR 01-03-113**  
**POLICY STATEMENT**  
**DEPARTMENT OF HEALTH**

[Filed January 22, 2001, 12:56 p.m.]

**NOTICE OF ADOPTION OF POLICY STATEMENT**

Title: Practice Guidelines for Telehealth/Telenursing for Registered Nurses.

Issuing Entity: Washington State Nursing Care Quality Assurance Commission.

Subject: The Nursing Commission has adopted guidelines for when registered nurses may use a protocol to initiate a standing order for a medication or treatment. These guidelines also include requirements for documentation in patient records. This policy replaces the rescinded Joint Statement on Standing Orders and Protocols by the Washington State Medical Quality Assurance Commission, Nursing Quality Assurance Commission, Board of Pharmacy and the Board of Osteopathic Medicine and Surgery.

Effective Date: November 17, 2000.

Contact Person: Markay Newton, Department of Health, Nursing Care Commission, P.O. Box 47864, Olympia, WA 98504-7864, (360) 236-4724.

**WSR 01-03-117**  
**NOTICE OF PUBLIC MEETINGS**  
**GRAYS HARBOR COLLEGE**

[Memorandum—January 17, 2001]

Please publish notice of a change of date of the regular February, 2001 Grays Harbor College board of trustees meeting from February 20, 2001, to February 27, 2001. The time and location of the meeting, 5:30 p.m. in the Boardroom in the Joseph A. Malik Administration Building remains the same.

**WSR 01-03-118**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed January 22, 2001, 4:11 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Numbered Memorandum 01-03 MAA.

Subject: Psychiatric hospitalization.

Effective Date: February 1, 2001.

Document Description: The purpose of this memorandum is to update instructions regarding psychiatric inpatient management and supersedes Numbered Memorandum 98-61 (issued January 1999).

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, DSHS, Medical Assistance Administration, Division of Program Support, P.O. Box 45530, Olympia, WA 98504, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov> (click on Numbered Memorandum link), TDD 1-800-848-5429, fax (360) 586-9727, e-mail [mailto:sullikm@dshs.wa.gov](mailto:mailto:sullikm@dshs.wa.gov).

January 18, 2001

Ann Myers, Acting Manager  
 Regulatory Improvement Project

**WSR 01-03-123**  
**NOTICE OF PUBLIC MEETINGS**  
**BOARD FOR**  
**VOLUNTEER FIRE FIGHTERS**

[Memorandum—January 19, 2001]

The July 2001, meeting of the State Board for Volunteer Fire Fighters has been rescheduled. The meeting will take place at 9:00 a.m. on July 13, 2001, in Suite 112 of the Olympia Forum Building, 601 11th Avenue S.E., not on July 20 as had been previously planned.

**WSR 01-03-124**  
**NOTICE OF PUBLIC MEETINGS**  
**EASTERN WASHINGTON UNIVERSITY**

[Memorandum—January 23, 2001]

EASTERN WASHINGTON UNIVERSITY  
 BOARD OF TRUSTEES  
 January 26, 2001 - 10:00 a.m.  
 Pence Union Building Room 263-7  
 Cheney Campus

Eastern Washington University strives to satisfy all requests for special access needs for persons with disabilities. Requests for such accommodation are welcome and may be made by calling the President's Office, (509) 359-6598.

**WSR 01-03-127**  
**NOTICE OF PUBLIC MEETINGS**  
**SKAGIT VALLEY COLLEGE**  
 [Memorandum—January 23, 2001]

NOTICE OF SPECIAL MEETING

BOARD OF TRUSTEES  
 COMMUNITY COLLEGE DISTRICT NO. 4  
 SKAGIT VALLEY COLLEGE

2405 East College Way  
 Mount Vernon, WA 98273  
 Monday, January 29, 2001  
 4:30 p.m.

Mount Vernon Campus Board Room

Chairperson, Dr. Barbara Andersen, has called a special meeting of the board of trustees for Monday, January 29, 2001, 4:30 p.m. This meeting is being held as a work session for the board of trustees. Business to be transacted will address board policies, strategic planning and governance. Action items, if any, made necessary by the foregoing discussion.

**WSR 01-03-142**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**  
 [Memorandum—January 22, 2001]

In accordance with RCW 42.30.075, the University of Washington is providing the following meeting schedules for governing bodies of schools, colleges, departments and programs at the university that maintain regular meeting schedules at the University of Washington Office of Public Records and Open Public Meetings.

The schedules represent the university's response for the year 2001. [These schedules are available for public inspection at the Office of Public Records and Open Public Meetings, 4014 University Way N.E., Seattle, WA 98105-6023, phone (206) 543-9180, fax (206) 616-6294, e-mail pubrec@u.washington.edu, campus mail: Box 355502.]

Department	Chair
Scandanavian Studies	Terje I. Leiren
University Facilities Use	Norman G. Arkans
Marine Affairs	Marc Hershman
Law	
Biomedical & Health Informatics, Faculty	Sherrilynne Fuller
Aquatic & Fishery Sciences	David Armstrong
Sociology	Robert Crutchfield
Biomedical & Health Informatics, Exec.	Ira Kalet
Biomedical & Health Informatics, Curr.	Peter Tarczy-Hormoch

Biomedical & Health Informatics, Admiss.	David Masuda
Basic Science Chairs	Paul G. Ramsey
Pediatrics	F. Bruder Stapleton
Architecture	Jeffrey Oschner
Pharmacy, Executive Committee	Sid Nelson
Pharmacy, Curriculum Committee	Jacqueline Gardner
Classics	Stephen Hinds
Neurology	Bruce R. Ransom
Electrical Engineering	Howard Chizeck
Graduate School	John Slattery
Tacoma, Business Administration	Patricia Fandt
Tacoma, Education	Ginger MacDonald
Tacoma, IAS	Bill Richardson
Tacoma, RAPP	Marcie Lazzari
Tacoma, Nursing	Marjorie Dobratz
Tacoma, Building & Facilities Use	Gary Comfort
Tacoma, Computing & Software	Larry Crum
Tacoma, Social Work	Marcie Lazzari
Washington Technology Center	
Anesthesiology	Frederick Cheney
ASUW, Senate	Eric Stride
ASUW, Board of Directors	Jasmin Weaver
ASUW, Finance & Budget	Jorge Roberts
ASUW, Personnel	Stephan Hamberg
GPSS, Senate	Gorkem Kuterdem
GPSS, Executive Meeting	Gorkem Kuterdem
Prosthodontics	L. Brian Toolson
Geography	Craig Zumbrunnen
Applied Mathematics	Ka Kit Tung
Music	Robin McCabe
Pharmacy	Danny D. Shen
Forest Resources, Complete Faculty	Kristina Vogt
Childcare Assistance Program	Amy Skei
Forest Resources, Ecosystem Science	
Education	Kathleen Martin
History	Rober C. Stacey
Forest Resources, Mgmt & Engineering	Gustafson
Urology	William Ellis
Ophthalmology	Steven E. Wilson

MISC.



Near Eastern Languages & Civilization	Michael Williams
Student Technology Fee Committee	Keith Falls
Medical Staff Administrative Committee	Eric B. Larson
Computer Science & Engineering	
Landscape Architecture	Robertson
Maternal & Child Health Program	Frederick Connell
Oral Medicine, Clinical Services Faculty	Edmond Truelove
Oral Medicine, Faculty	Edmond Truelove
Music, Graduate Faculty	John Rahn
Drama	Sarah Nash Gates
Restorative Dentistry	Richard McCoy
Communications	C. Anthony Giffard
Physics	David G. Boulware
Immunology	Christopher B. Wilson
Aeronautics & Astronautics	Adam Bruckner
Public Health	Patricia Wahl
Medical History & Ethics	Wylie Burke
Rehabilitation Medicine	Lawrence R. Robinson
Educational Outreach, Admin. Council	David Szatmary
Educational Outreach, Exec. Council	David Szatmary
Public Affairs	Marc Lindenberg
Math	Donald Marshall
Animal Care Committee	Melvin Dennis
Library & Information Science	Michael Eisenberg
Early Entrance Program/Transition School	Nancy Sisko
Biochemistry	Alan M. Weiner
Orthodontics	Gregory J. King
Zoology	John Wingfield
Surgery	Carlos Pellegrini
Asian Languages & Literature	William G. Boltz
Philosophy	Ken Clatterbaugh
Environmental Health	David Kalma
Pediatric Dentistry	Peter K. Domoto
Dentistry, Grad. Steering Committee	Penelope Leggett
Bioengineering, Curriculum	James Bassingthwaighte
Bioengineering, Faculty	Yongmin Kim
Economics	Gardner Brown
Psychosocial and Community Health	Bobbie Berkowitz

Astronomy	Craig Hogem
Physiology & Biophysics	Stan Froehner
Civil & Environmental Engineering	Fred Mannering
Nursing, Faculty	J. Whitney
Nursing, Faculty Council	J. Whitney
Nursing, Promotion & Tenure	S. Blackburn
Nursing, Deans & Chairs	N. Woods
Nursing, Governing Council	N. Woods
Nursing, Departmental Meetings	Swanson/Berkowitz/Heikempe
Oral Medicine	Edmond Truelove
Oceanography	
American Ethnic Studies	Stephen H. Sumida
Botany	Joe Ammirati
Germanics	Richard Gray
Microbiology	James I. Mullins
Materials Science & Engineering	Rajendra K. Bordia
Health Services, Faculty	William L. Dowling
Health Services, Program Directors	William L. Dowling
Psychiatry, Advisory Committee	Richard Veith
Medical Education	Frederic Wolf
Comparative Medicine	Melvin B. Dennis Jr.
UW Medical Center	Ed Walker
Otolaryngology	Ernest A. Weymuller Jr.
Harborview Medical Center, Board of Tru	
Harborview Medical Center, Educational	
Harborview Medical Center, Finance Com	
Harborview Medical Center, Executive Co	
Harborview Medical Center, Health Care	
Harborview Medical Center, Joint Confere	
Harborview Medical Center, Strategic Pla	
Women Studies	Shirley Yee
Chemical Engineering	Eric M. Stuve
Teacher Education	Nathalie Gehrke
Business Administration	Dave Burgstahler
Bothell, Business	Stanley Slater
Bothell, Computing & Software Systems	Charles Jackels

MISC.

Mechanical Engineering	William R.D.Wilson
Biostatistics	Thomas R. Fleming

**WSR 01-03-148**  
**NOTICE OF PUBLIC MEETINGS**  
**COMMUNITY COLLEGES**  
**OF SPOKANE**

[Memorandum—January 24, 2001]

<b>BOARD OF TRUSTEES</b> <b>WASHINGTON COMMUNITY COLLEGE DISTRICT 17</b>		
Notice is hereby given, pursuant to RCW 42.30.075, that the regular meetings of the board of trustees of Washington State Community College District 17 (Community Colleges of Spokane) during calendar year 2001 shall be held at 8:30 a.m. on the following dates ( <i>third Tuesdays</i> ) and in the following locations:		
Date	Location	Address
January 16, 2001 (3rd Tuesday)	Max Snyder Building	East and West Board Rooms 2000 North Greene Street Spokane, WA
February 20, 2001 (3rd Tuesday)	SFCC	The Falls Conference Room Administration Building 3410 West Fort George Wright Drive Spokane, WA
March 20, 2001 (3rd Tuesday)	SCC	Lair Littlefoot Room 1810 North Greene Street Spokane, WA
April 17, 2001 (3rd Tuesday)	Max Snyder Building	East and West Board Rooms 2000 North Greene Street Spokane, WA
May 15, 2001 (3rd Tuesday)	IEL	Newport Center 1404 West 5th Newport, WA
June 19, 2001 (3rd Tuesday)	Max Snyder Building	East and West Board Rooms 2000 North Greene Street Spokane, WA
July 17, 2001 (3rd Tuesday)	Max Snyder Building	East and West Board Rooms 2000 North Greene Street Spokane, WA
August 21, 2001 (3rd Tuesday)	Max Snyder Building	East and West Board Rooms 2000 North Greene Street Spokane, WA
September 18, 2001 (3rd Tuesday)	SCC	Lair Littlefoot Room 1810 North Greene Street Spokane, WA
October 16, 2001 (3rd Tuesday)	IEL	Training and Education Coordinating Center 3939 North Freya Spokane, WA
November 20, 2001 (3rd Tuesday)	SFCC	The Falls Conference Room Administration Building 3410 West Fort George Wright Drive Spokane, WA
December 18, 2001 (3rd Tuesday)	Max Snyder Building	East and West Board Rooms 2000 North Greene Street Spokane, WA

**WSR 01-03-149**  
**NOTICE OF PUBLIC MEETINGS**  
**BATES TECHNICAL COLLEGE**  
 [Memorandum—January 19, 2001]

The board of trustees of Bates Technical College has rescheduled its regularly scheduled meeting of February 21, 2001, to February 28, 2001. It will begin at 2:00 p.m. in the Clyde Hupp Board Room at Bates Technical College, 1101 South Yakima Avenue, Tacoma, WA 98405.

**WSR 01-03-150**  
**NOTICE OF PUBLIC MEETINGS**  
**PENINSULA COLLEGE**  
 [Memorandum—January 23, 2001]

The Peninsula College Board of Trustees, District 1, Peninsula College, has submitted a change for board meeting locations for the following months:

- February 13    Port Angeles Marine Lab
- March 13      Forks, Washington 98331
- April 10      Port Townsend, Washington 98368
- May 8         Port Angeles College Campus
- June 12      Port Angeles College Campus
- September 11    Sequim, Washington 98382

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 #
4-25-626	AMD	01-03-012	51-11-1322	AMD	01-03-010	51-13-303	AMD	01-02-099
4-25-730	AMD	01-03-011	51-11-1323	AMD	01-03-010	51-13-304	AMD	01-02-099
16-143-005	NEW	01-03-049	51-11-1331	AMD	01-03-010	51-13-503	AMD	01-02-099
16-228-1155	NEW-W	01-02-080	51-11-1334	AMD	01-03-010	51-40-0200	AMD	01-02-095
16-328	PREP	01-03-140	51-11-1410	AMD	01-03-010	51-40-0310	AMD	01-02-095
16-333	PREP	01-03-139	51-11-1411	AMD	01-03-010	51-40-0313	AMD	01-02-095
16-401	PREP	01-02-101	51-11-1412	AMD	01-03-010	51-40-0902	AMD	01-02-095
16-403	PREP	01-03-133	51-11-1414	AMD	01-03-010	51-40-1003	AMD	01-02-095
16-470	PREP	01-02-100	51-11-1415	AMD	01-03-010	51-40-1004	AMD	01-02-095
16-557-020	AMD-P	01-02-094	51-11-1416	NEW	01-03-010	51-40-1104	AMD	01-02-095
51-11-0101	AMD	01-03-010	51-11-1423	AMD	01-03-010	51-40-1105	AMD	01-02-095
51-11-0201	AMD	01-03-010	51-11-1433	AMD	01-03-010	51-40-1106	AMD	01-02-095
51-11-0502	AMD	01-03-010	51-11-1435	AMD	01-03-010	51-40-1202	NEW	01-02-095
51-11-0503	AMD	01-03-010	51-11-1438	AMD	01-03-010	51-40-1203	AMD	01-02-095
51-11-0504	AMD	01-03-010	51-11-1439	NEW	01-03-010	51-40-2900	AMD	01-02-095
51-11-0505	AMD	01-03-010	51-11-1443	NEW	01-03-010	51-40-3102	AMD	01-02-095
51-11-0530	AMD	01-03-010	51-11-1454	AMD	01-03-010	51-40-31200	AMD	01-02-095
51-11-0601	AMD	01-03-010	51-11-1512	AMD	01-03-010	51-42-0405	NEW	01-02-098
51-11-0604	AMD	01-03-010	51-11-1513	AMD	01-03-010	51-42-1103	AMD	01-02-098
51-11-0605	AMD	01-03-010	51-11-1521	AMD	01-03-010	51-42-1105	AMD	01-02-098
51-11-0625	AMD	01-03-010	51-11-1530	AMD	01-03-010	51-42-1109	NEW	01-02-098
51-11-0626	AMD	01-03-010	51-11-1531	AMD	01-03-010	51-42-1110	NEW	01-02-098
51-11-0627	AMD	01-03-010	51-11-1532	AMD	01-03-010	51-42-1111	NEW	01-02-098
51-11-0628	AMD	01-03-010	51-11-1701	REP	01-03-010	51-42-1112	NEW	01-02-098
51-11-0630	AMD	01-03-010	51-11-2000	REP	01-03-010	51-42-1113	NEW	01-02-098
51-11-0701	AMD	01-03-010	51-11-2001	REP	01-03-010	51-42-1114	NEW	01-02-098
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51-11-1009	AMD	01-03-010	51-11-99902	AMD	01-03-010	51-42-1123	NEW	01-02-098
51-11-1132	AMD	01-03-010	51-11-99903	AMD	01-03-010	51-42-1124	NEW	01-02-098
51-11-1201	REP	01-03-010	51-11-99904	AMD	01-03-010	51-42-1126	NEW	01-02-098
51-11-1210	REP	01-03-010	51-13-101	AMD	01-02-099	51-42-1301	NEW	01-02-098
51-11-1312	AMD	01-03-010	51-13-301	AMD	01-02-099	51-44-0103	AMD	01-02-096
51-11-1313	AMD	01-03-010	51-13-302	AMD	01-02-099	51-44-0105	NEW	01-02-096

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51-44-1007	AMD	01-02-096	220-52-07300D	REP-E	01-03-062	284-04-620	NEW	01-03-034
51-44-1102	NEW	01-02-096	220-52-07300E	NEW-E	01-03-062	284-04-900	NEW	01-03-034
51-44-1109	AMD	01-02-096	220-52-07300E	REP-E	01-03-093	284-43-130	AMD	01-03-032
51-44-2500	AMD	01-02-096	220-52-07300F	NEW-E	01-03-093	284-43-130	AMD	01-03-033
51-44-5200	AMD	01-02-096	220-56-24000E	NEW-E	01-03-044	284-43-200	AMD	01-03-033
51-44-7900	AMD	01-02-096	220-69-240	AMD-P	01-02-085	284-43-251	NEW	01-03-033
51-46-0200	AMD	01-02-097	220-69-240	AMD-P	01-02-086	284-43-410	NEW	01-03-033
51-46-0603	AMD	01-02-097	220-88C-010	NEW-S	01-02-082	284-43-610	REP	01-03-033
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132A-120-021	AMD-P	01-03-116	220-88C-030	NEW-S	01-02-082	284-43-620	AMD	01-03-033
132K-122-020	PREP	01-03-125	220-88C-040	NEW-S	01-02-082	284-43-630	NEW	01-03-033
132K-122-100	PREP	01-03-126	220-88C-050	NEW-S	01-02-082	284-43-815	NEW	01-03-032
132W-104	PREP	01-03-103	232-28-274	REP-W	01-03-077	284-43-820	NEW	01-03-033
132W-108	PREP	01-03-103	232-28-42400C	NEW-E	01-03-013	284-43-821	NEW	01-03-035
132W-112	PREP	01-03-103	232-28-42400C	REP-E	01-03-013	284-43-823	NEW	01-03-035
132W-115	PREP	01-03-103	232-28-61900N	NEW-E	01-03-061	284-43-824	NEW	01-03-035
132W-116	PREP	01-03-103	232-28-61900N	REP-E	01-03-061	284-43-899	NEW	01-03-033
132W-276	PREP	01-03-103	246-220-010	AMD-P	01-02-087	286-06	PREP	01-02-090
132W-325	PREP	01-03-103	246-221-005	AMD-P	01-02-087	286-13-040	PREP	01-02-090
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137-04-020	AMD	01-03-079	246-221-015	AMD-P	01-02-087	296-20	PREP	01-02-091
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180-78A-264	AMD	01-03-153	246-221-055	AMD-P	01-02-087	296-30-130	PREP	01-03-156
180-79A-030	AMD	01-03-153	246-221-090	AMD-P	01-02-087	296-150C	PREP	01-03-070
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180-79A-206	AMD	01-03-153	246-221-110	AMD-P	01-02-087	296-150M	PREP	01-03-070
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208-512-110	AMD-P	01-03-107	246-244-070	AMD-P	01-02-087	308-29-010	AMD-P	01-03-130
208-512-115	AMD-P	01-03-107	246-843-072	REP	01-03-114	308-29-020	AMD-P	01-03-130
208-512-116	AMD-P	01-03-107	246-843-074	REP	01-03-114	308-29-025	NEW-P	01-03-130
208-512-117	AMD-P	01-03-107	246-887-100	AMD	01-03-108	308-29-030	AMD-P	01-03-130
208-512-240	AMD-P	01-03-107	246-919-475	NEW	01-03-115	308-29-045	AMD-P	01-03-130
208-512-280	AMD-P	01-03-107	262-01-110	PREP	01-03-144	308-29-050	AMD-P	01-03-130
208-512-300	AMD-P	01-03-107	262-01-120	PREP	01-03-144	308-29-060	AMD-P	01-03-130
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208-532-050	AMD-P	01-03-107	284-04-200	NEW	01-03-034	308-29-090	NEW-P	01-03-130
208-544-025	AMD-P	01-03-107	284-04-205	NEW	01-03-034	308-29-100	NEW-P	01-03-130
208-544-037	AMD-P	01-03-107	284-04-210	NEW	01-03-034	308-29-110	NEW-P	01-03-130
208-544-039	AMD-P	01-03-107	284-04-215	NEW	01-03-034	308-29-120	NEW-P	01-03-130
208-556-080	AMD-P	01-03-107	284-04-220	NEW	01-03-034	308-32-100	REP	01-03-065
208-586-135	AMD-P	01-03-107	284-04-225	NEW	01-03-034	308-32-110	REP	01-03-065
208-586-140	AMD-P	01-03-107	284-04-300	NEW	01-03-034	308-32-120	REP	01-03-065
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220-52-073	AMD-P	01-02-086	284-04-525	NEW	01-03-034	308-78-020	AMD-P	01-03-083
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220-52-07300C	NEW-E	01-03-014	284-04-605	NEW	01-03-034	308-78-035	NEW-P	01-03-083
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308- 78-070	AMD-P	01-03-083	314- 15-075	NEW	01-03-085	388- 11-335	REP	01-03-089
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308- 78-080	AMD-P	01-03-083	314- 15-085	NEW	01-03-085	388- 13-010	REP	01-03-089
308- 78-090	AMD-P	01-03-083	314- 15-090	NEW	01-03-085	388- 13-020	REP	01-03-089
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308- 93-030	AMD	01-03-128	314- 15-100	NEW	01-03-085	388- 13-040	REP	01-03-089
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308- 93-056	AMD	01-03-128	314- 15-115	NEW	01-03-085	388- 13-070	REP	01-03-089
308- 93-060	AMD-P	01-03-017	314- 29-005	NEW	01-03-086	388- 13-085	REP	01-03-089
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308- 93-070	AMD-P	01-03-017	356- 06-045	AMD-C	01-02-088	388- 13-100	REP	01-03-089
308- 93-071	AMD-P	01-03-017	356- 10-040	AMD-C	01-02-089	388- 13-110	REP	01-03-089
308- 93-073	REP-P	01-03-017	356- 14-067	AMD-C	01-02-089	388- 13-120	REP	01-03-089
308- 93-078	AMD-P	01-03-017	356- 14-075	AMD-C	01-02-089	388- 14-010	REP	01-03-089
308- 93-079	AMD	01-03-128	356- 14-085	AMD-C	01-02-089	388- 14-020	REP	01-03-089
308- 93-090	AMD	01-03-128	356- 14-110	AMD-C	01-02-089	388- 14-030	REP	01-03-089
308- 93-160	AMD	01-03-128	356- 14-120	AMD-C	01-02-089	388- 14-035	REP	01-03-089
308- 93-285	AMD-P	01-03-017	356- 15-140	AMD-C	01-02-089	388- 14-040	REP	01-03-089
308- 93-350	AMD-P	01-03-017	356- 18-140	AMD-C	01-02-089	388- 14-045	REP	01-03-089
308- 93-360	AMD-P	01-03-017	356- 18-220	AMD-C	01-02-089	388- 14-050	REP	01-03-089
308- 93-390	AMD-P	01-03-072	356- 30-320	AMD-C	01-02-088	388- 14-100	REP	01-03-089
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314- 04-007	REP	01-03-086	356- 56-220	AMD	01-03-003	388- 14-203	REP	01-03-089
314- 09-005	NEW	01-03-087	365-195-900	AMD-P	01-03-166	388- 14-205	REP	01-03-089
314- 09-010	NEW	01-03-087	365-197-010	NEW-P	01-03-165	388- 14-210	REP	01-03-089
314- 09-015	NEW	01-03-087	365-197-020	NEW-P	01-03-165	388- 14-220	REP	01-03-089
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314- 14-010	REP	01-03-085	365-197-040	NEW-P	01-03-165	388- 14-260	REP	01-03-089
314- 14-020	REP	01-03-085	365-197-050	NEW-P	01-03-165	388- 14-270	REP	01-03-089
314- 14-030	REP	01-03-085	365-197-060	NEW-P	01-03-165	388- 14-271	REP	01-03-089
314- 14-040	REP	01-03-085	365-197-070	NEW-P	01-03-165	388- 14-272	REP	01-03-089
314- 14-050	REP	01-03-085	365-197-080	NEW-P	01-03-165	388- 14-273	REP	01-03-089
314- 14-060	REP	01-03-085	388- 11-011	REP	01-03-089	388- 14-274	REP	01-03-089
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314- 14-130	REP	01-03-085	388- 11-120	REP	01-03-089	388- 14-370	REP	01-03-089
314- 14-140	REP	01-03-085	388- 11-135	REP	01-03-089	388- 14-376	REP	01-03-089
314- 14-150	REP	01-03-085	388- 11-140	REP	01-03-089	388- 14-385	REP	01-03-089
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314- 15-035	NEW	01-03-085	388- 11-220	REP	01-03-089	388- 14-422	REP	01-03-089
314- 15-040	NEW	01-03-085	388- 11-280	REP	01-03-089	388- 14-423	REP	01-03-089
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388- 14-460	REP	01-03-089	388- 14A-3304	NEW	01-03-089	388- 14A-5300	NEW	01-03-089
388- 14-480	REP	01-03-089	388- 14A-3310	NEW	01-03-089	388- 14A-5400	NEW	01-03-089
388- 14-490	REP	01-03-089	388- 14A-3315	NEW	01-03-089	388- 14A-5500	NEW	01-03-089
388- 14-495	REP	01-03-089	388- 14A-3320	NEW	01-03-089	388- 14A-5505	NEW	01-03-089
388- 14-496	REP	01-03-089	388- 14A-3350	NEW	01-03-089	388- 14A-5510	NEW	01-03-089
388- 14-500	REP	01-03-089	388- 14A-3370	NEW	01-03-089	388- 14A-5515	NEW	01-03-089
388- 14-510	REP	01-03-089	388- 14A-3375	NEW	01-03-089	388- 14A-5520	NEW	01-03-089
388- 14-520	REP	01-03-089	388- 14A-3400	NEW	01-03-089	388- 14A-5525	NEW	01-03-089
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388- 14-540	REP	01-03-089	388- 14A-3600	NEW	01-03-089	388- 14A-5535	NEW	01-03-089
388- 14-550	REP	01-03-089	388- 14A-3700	NEW	01-03-089	388- 14A-5540	NEW	01-03-089
388- 14-560	REP	01-03-089	388- 14A-3800	NEW	01-03-089	388- 14A-6000	NEW	01-03-089
388- 14-570	REP	01-03-089	388- 14A-3810	NEW	01-03-089	388- 14A-6100	NEW	01-03-089
388- 14A-1000	NEW	01-03-089	388- 14A-3900	NEW	01-03-089	388- 14A-6200	NEW	01-03-089
388- 14A-1005	NEW	01-03-089	388- 14A-3901	NEW	01-03-089	388- 14A-6300	NEW	01-03-089
388- 14A-1010	NEW	01-03-089	388- 14A-3902	NEW	01-03-089	388- 14A-6400	NEW	01-03-089
388- 14A-1015	NEW	01-03-089	388- 14A-3903	NEW	01-03-089	388- 14A-6405	NEW	01-03-089
388- 14A-1020	NEW	01-03-089	388- 14A-3904	NEW	01-03-089	388- 14A-6410	NEW	01-03-089
388- 14A-1025	NEW	01-03-089	388- 14A-3905	NEW	01-03-089	388- 14A-6415	NEW	01-03-089
388- 14A-1030	NEW	01-03-089	388- 14A-3906	NEW	01-03-089	388- 14A-6500	NEW	01-03-089
388- 14A-1035	NEW	01-03-089	388- 14A-3907	NEW	01-03-089	388- 14A-7100	NEW	01-03-089
388- 14A-1036	NEW	01-03-089	388- 14A-3925	NEW	01-03-089	388- 14A-7200	NEW	01-03-089
388- 14A-1040	NEW	01-03-089	388- 14A-4000	NEW	01-03-089	388- 14A-8100	NEW	01-03-089
388- 14A-1045	NEW	01-03-089	388- 14A-4010	NEW	01-03-089	388- 14A-8105	NEW	01-03-089
388- 14A-1050	NEW	01-03-089	388- 14A-4020	NEW	01-03-089	388- 14A-8110	NEW	01-03-089
388- 14A-1055	NEW	01-03-089	388- 14A-4030	NEW	01-03-089	388- 14A-8120	NEW	01-03-089
388- 14A-1060	NEW	01-03-089	388- 14A-4040	NEW	01-03-089	388- 14A-8200	NEW	01-03-089
388- 14A-2000	NEW	01-03-089	388- 14A-4100	NEW	01-03-089	388- 14A-8300	NEW	01-03-089
388- 14A-2005	NEW	01-03-089	388- 14A-4110	NEW	01-03-089	388- 14A-8400	NEW	01-03-089
388- 14A-2010	NEW	01-03-089	388- 14A-4115	NEW	01-03-089	388- 14A-8500	NEW	01-03-089
388- 14A-2015	NEW	01-03-089	388- 14A-4120	NEW	01-03-089	388- 71-0605	AMD-P	01-03-155
388- 14A-2020	NEW	01-03-089	388- 14A-4130	NEW	01-03-089	388- 71-0613	NEW-P	01-03-155
388- 14A-2025	NEW	01-03-089	388- 14A-4200	NEW	01-03-089	388- 86-086	REP	01-03-084
388- 14A-2030	NEW	01-03-089	388- 14A-4300	NEW	01-03-089	388- 86-100	REP-W	01-03-001
388- 14A-2035	NEW	01-03-089	388- 14A-4301	NEW	01-03-089	388- 87-036	REP	01-03-084
388- 14A-2036	NEW	01-03-089	388- 14A-4302	NEW	01-03-089	388-222-001	REP	01-03-066
388- 14A-2037	NEW	01-03-089	388- 14A-4303	NEW	01-03-089	388-222-010	REP	01-03-066
388- 14A-2038	NEW	01-03-089	388- 14A-4304	NEW	01-03-089	388-222-020	REP	01-03-066
388- 14A-2040	NEW	01-03-089	388- 14A-4500	NEW	01-03-089	388-310-0900	AMD-P	01-03-060
388- 14A-2041	NEW	01-03-089	388- 14A-4505	NEW	01-03-089	388-310-0900	AMD-E	01-03-132
388- 14A-2045	NEW	01-03-089	388- 14A-4510	NEW	01-03-089	388-310-1000	AMD-P	01-03-060
388- 14A-2050	NEW	01-03-089	388- 14A-4515	NEW	01-03-089	388-310-1000	AMD-E	01-03-132
388- 14A-2060	NEW	01-03-089	388- 14A-4520	NEW	01-03-089	388-310-1050	AMD-P	01-03-060
388- 14A-2065	NEW	01-03-089	388- 14A-4525	NEW	01-03-089	388-310-1050	AMD-E	01-03-132
388- 14A-2070	NEW	01-03-089	388- 14A-4530	NEW	01-03-089	388-310-2000	NEW	01-03-042
388- 14A-2075	NEW	01-03-089	388- 14A-4600	NEW	01-03-089	388-400-0005	AMD	01-03-121
388- 14A-2080	NEW	01-03-089	388- 14A-4605	NEW	01-03-089	388-400-0015	REP	01-03-121
388- 14A-2085	NEW	01-03-089	388- 14A-4610	NEW	01-03-089	388-400-0020	REP-P	01-03-120
388- 14A-2090	NEW	01-03-089	388- 14A-4615	NEW	01-03-089	388-400-0030	AMD-P	01-03-040
388- 14A-2095	NEW	01-03-089	388- 14A-4620	NEW	01-03-089	388-400-0030	AMD-E	01-03-041
388- 14A-2097	NEW	01-03-089	388- 14A-5000	NEW	01-03-089	388-404-0005	AMD	01-03-121
388- 14A-2099	NEW	01-03-089	388- 14A-5001	NEW	01-03-089	388-408-0005	AMD	01-03-121
388- 14A-2105	NEW	01-03-089	388- 14A-5002	NEW	01-03-089	388-408-0010	AMD	01-03-121
388- 14A-2110	NEW	01-03-089	388- 14A-5003	NEW	01-03-089	388-408-0015	AMD	01-03-121
388- 14A-2115	NEW	01-03-089	388- 14A-5004	NEW	01-03-089	388-408-0020	AMD	01-03-121
388- 14A-2120	NEW	01-03-089	388- 14A-5005	NEW	01-03-089	388-408-0025	AMD	01-03-121
388- 14A-2125	NEW	01-03-089	388- 14A-5006	NEW	01-03-089	388-408-0030	AMD	01-03-121
388- 14A-2150	NEW	01-03-089	388- 14A-5007	NEW	01-03-089	388-432-0005	NEW	01-03-066
388- 14A-2155	NEW	01-03-089	388- 14A-5008	NEW	01-03-089	388-450-0190	AMD-P	01-03-038
388- 14A-2160	NEW	01-03-089	388- 14A-5050	NEW	01-03-089	388-450-0190	AMD-E	01-03-039

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388-454-0010	AMD	01-03-121	480-90-023	NEW-P	01-02-084	480-90-223	NEW-P	01-02-084
388-472-0005	PREP	01-03-119	480-90-026	REP-P	01-02-084	480-90-228	NEW-P	01-02-084
388-488	PREP	01-03-024	480-90-028	NEW-P	01-02-084	480-90-233	NEW-P	01-02-084
388-535-1230	AMD-P	01-03-154	480-90-031	REP-P	01-02-084	480-90-238	NEW-P	01-02-084
388-546-0001	NEW	01-03-084	480-90-032	REP-P	01-02-084	480-90-303	NEW-P	01-02-084
388-546-0100	NEW	01-03-084	480-90-033	NEW-P	01-02-084	480-90-308	NEW-P	01-02-084
388-546-0150	NEW	01-03-084	480-90-036	REP-P	01-02-084	480-90-313	NEW-P	01-02-084
388-546-0200	NEW	01-03-084	480-90-041	REP-P	01-02-084	480-90-323	NEW-P	01-02-084
388-546-0250	NEW	01-03-084	480-90-043	REP-P	01-02-084	480-90-328	NEW-P	01-02-084
388-546-0300	NEW	01-03-084	480-90-046	REP-P	01-02-084	480-90-333	NEW-P	01-02-084
388-546-0400	NEW	01-03-084	480-90-051	REP-P	01-02-084	480-90-338	NEW-P	01-02-084
388-546-0450	NEW	01-03-084	480-90-056	REP-P	01-02-084	480-90-343	NEW-P	01-02-084
388-546-0500	NEW	01-03-084	480-90-061	REP-P	01-02-102	480-90-348	NEW-P	01-02-084
388-546-0600	NEW	01-03-084	480-90-066	REP-P	01-02-084	480-90-353	NEW-P	01-02-084
388-546-0700	NEW	01-03-084	480-90-071	REP-P	01-02-084	480-90-999	NEW-P	01-02-084
388-546-0800	NEW	01-03-084	480-90-072	REP-P	01-02-084	480-100-001	NEW-P	01-02-083
388-546-1000	NEW	01-03-084	480-90-076	REP-P	01-02-084	480-100-003	NEW-P	01-02-083
388-551	PREP	01-03-095	480-90-081	REP-P	01-02-084	480-100-008	NEW-P	01-02-083
388-551	PREP	01-03-096	480-90-086	REP-P	01-02-084	480-100-011	REP-P	01-02-083
388-825-020	PREP	01-03-059	480-90-091	REP-P	01-02-084	480-100-013	NEW-P	01-02-083
388-825-205	PREP	01-03-059	480-90-096	REP-P	01-02-084	480-100-016	REP-P	01-02-083
390-16-011	PREP	01-03-164	480-90-101	REP-P	01-02-084	480-100-018	NEW-P	01-02-083
390-16-012	PREP	01-03-163	480-90-103	NEW-P	01-02-084	480-100-021	REP-P	01-02-083
390-16-105	PREP	01-03-161	480-90-106	REP-P	01-02-084	480-100-023	NEW-P	01-02-083
390-16-111	PREP	01-03-159	480-90-108	NEW-P	01-02-084	480-100-026	REP-P	01-02-083
390-16-150	PREP	01-03-162	480-90-113	NEW-P	01-02-084	480-100-028	NEW-P	01-02-083
390-16-309	PREP	01-03-081	480-90-116	REP-P	01-02-084	480-100-031	REP-P	01-02-083
390-16-311	PREP	01-03-082	480-90-118	NEW-P	01-02-084	480-100-032	REP-P	01-02-083
390-24-200	PREP	01-03-160	480-90-121	REP-P	01-02-084	480-100-033	NEW-P	01-02-083
392-122-322	PREP	01-03-099	480-90-123	NEW-P	01-02-084	480-100-036	REP-P	01-02-083
392-122-900	PREP	01-03-099	480-90-126	REP-P	01-02-084	480-100-041	REP-P	01-02-083
392-125-080	AMD-E	01-03-098	480-90-128	NEW-P	01-02-084	480-100-043	REP-P	01-02-083
392-141-200	PREP	01-03-099	480-90-131	REP-P	01-02-084	480-100-046	REP-P	01-02-083
392-151-090	AMD-P	01-03-097	480-90-133	NEW-P	01-02-084	480-100-051	REP-P	01-02-083
392-151-095	AMD-P	01-03-097	480-90-136	REP-P	01-02-084	480-100-056	REP-P	01-02-083
399-10-010	AMD-P	01-03-143	480-90-138	NEW-P	01-02-084	480-100-061	REP-P	01-02-102
399-30-030	AMD-P	01-03-143	480-90-141	REP-P	01-02-084	480-100-066	REP-P	01-02-083
399-30-040	AMD-P	01-03-143	480-90-143	NEW-P	01-02-084	480-100-071	REP-P	01-02-083
399-30-042	AMD-P	01-03-143	480-90-146	REP-P	01-02-084	480-100-072	REP-P	01-02-083
399-50-040	AMD-P	01-03-143	480-90-148	NEW-P	01-02-084	480-100-076	REP-P	01-02-083
458-20-169	AMD-P	01-03-091	480-90-151	REP-P	01-02-084	480-100-081	REP-P	01-02-083
458-20-22802	AMD-P	01-03-105	480-90-153	NEW-P	01-02-084	480-100-086	REP-P	01-02-083
478-355-010	AMD-P	01-03-122	480-90-156	REP-P	01-02-084	480-100-091	REP-P	01-02-083
478-355-030	AMD-P	01-03-122	480-90-158	NEW-P	01-02-084	480-100-096	REP-P	01-02-083
478-355-040	AMD-P	01-03-122	480-90-161	REP-P	01-02-084	480-100-101	REP-P	01-02-083
480-80-010	AMD-P	01-02-102	480-90-163	NEW-P	01-02-084	480-100-103	NEW-P	01-02-083
480-80-035	NEW-P	01-02-102	480-90-166	REP-P	01-02-084	480-100-108	NEW-P	01-02-083
480-80-047	REP-P	01-02-102	480-90-168	NEW-P	01-02-084	480-100-111	REP-P	01-02-083
480-80-048	REP-P	01-02-102	480-90-171	REP-P	01-02-084	480-100-113	NEW-P	01-02-083
480-80-049	REP-P	01-02-102	480-90-173	NEW-P	01-02-084	480-100-116	REP-P	01-02-083
480-80-120	REP-P	01-02-102	480-90-176	REP-P	01-02-084	480-100-118	NEW-P	01-02-083
480-80-325	NEW-P	01-02-102	480-90-178	NEW-P	01-02-084	480-100-121	REP-P	01-02-083
480-80-326	NEW-P	01-02-102	480-90-181	REP-P	01-02-084	480-100-123	NEW-P	01-02-083
480-80-390	REP-P	01-02-102	480-90-183	NEW-P	01-02-084	480-100-126	REP-P	01-02-083
480-90-001	NEW-P	01-02-084	480-90-188	NEW-P	01-02-084	480-100-128	NEW-P	01-02-083
480-90-003	NEW-P	01-02-084	480-90-191	REP-P	01-02-084	480-100-131	REP-P	01-02-083
480-90-008	NEW-P	01-02-084	480-90-193	NEW-P	01-02-102	480-100-133	NEW-P	01-02-083
480-90-011	REP-P	01-02-084	480-90-203	NEW-P	01-02-084	480-100-136	REP-P	01-02-083
480-90-013	NEW-P	01-02-084	480-90-208	NEW-P	01-02-084	480-100-138	NEW-P	01-02-083
480-90-016	REP-P	01-02-084	480-90-211	REP-P	01-02-084	480-100-141	REP-P	01-02-083
480-90-018	NEW-P	01-02-084	480-90-213	NEW-P	01-02-084	480-100-143	NEW-P	01-02-083

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480-100-151	REP-P	01-02-083	480-120-091	REP-P	01-03-100			
480-100-153	NEW-P	01-02-083	480-120-096	REP-P	01-03-100			
480-100-156	REP-P	01-02-083	480-120-136	AMD-P	01-03-100			
480-100-161	REP-P	01-02-083	480-120-530	AMD-P	01-03-100			
480-100-163	NEW-P	01-02-083	480-120-531	NEW-P	01-03-100			
480-100-166	REP-P	01-02-083	480-120-541	NEW-P	01-02-102			
480-100-168	NEW-P	01-02-083	480-120-542	NEW-P	01-02-102			
480-100-171	REP-P	01-02-083	480-120-543	NEW-P	01-02-102			
480-100-173	NEW-P	01-02-083	480-120-544	NEW-P	01-02-102			
480-100-176	REP-P	01-02-083	480-120-545	NEW-P	01-03-100			
480-100-178	NEW-P	01-02-083	480-121-061	NEW-P	01-02-102			
480-100-181	REP-P	01-02-083	480-121-062	NEW-P	01-02-102			
480-100-183	NEW-P	01-02-083	480-121-063	NEW-P	01-02-102			
480-100-186	REP-P	01-02-083	480-121-064	NEW-P	01-02-102			
480-100-188	NEW-P	01-02-083						
480-100-191	REP-P	01-02-083						
480-100-193	NEW-P	01-02-102						
480-100-201	REP-P	01-02-083						
480-100-203	NEW-P	01-02-083						
480-100-206	REP-P	01-02-083						
480-100-208	NEW-P	01-02-083						
480-100-211	REP-P	01-02-083						
480-100-213	NEW-P	01-02-083						
480-100-218	NEW-P	01-02-083						
480-100-223	NEW-P	01-02-083						
480-100-228	NEW-P	01-02-083						
480-100-233	NEW-P	01-02-083						
480-100-251	REP-P	01-02-083						
480-100-308	NEW-P	01-02-083						
480-100-311	REP-P	01-02-083						
480-100-313	NEW-P	01-02-083						
480-100-318	NEW-P	01-02-083						
480-100-328	NEW-P	01-02-083						
480-100-333	NEW-P	01-02-083						
480-100-338	NEW-P	01-02-083						
480-100-343	NEW-P	01-02-083						
480-100-353	NEW-P	01-02-083						
480-100-358	NEW-P	01-02-083						
480-100-363	NEW-P	01-02-083						
480-100-368	NEW-P	01-02-083						
480-100-373	NEW-P	01-02-083						
480-100-378	NEW-P	01-02-083						
480-100-383	NEW-P	01-02-083						
480-100-999	NEW-P	01-02-083						
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480-120-025	REP-P	01-02-102						
480-120-026	AMD-P	01-03-100						
480-120-027	REP-P	01-02-102						
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480-120-033	AMD-P	01-03-100						
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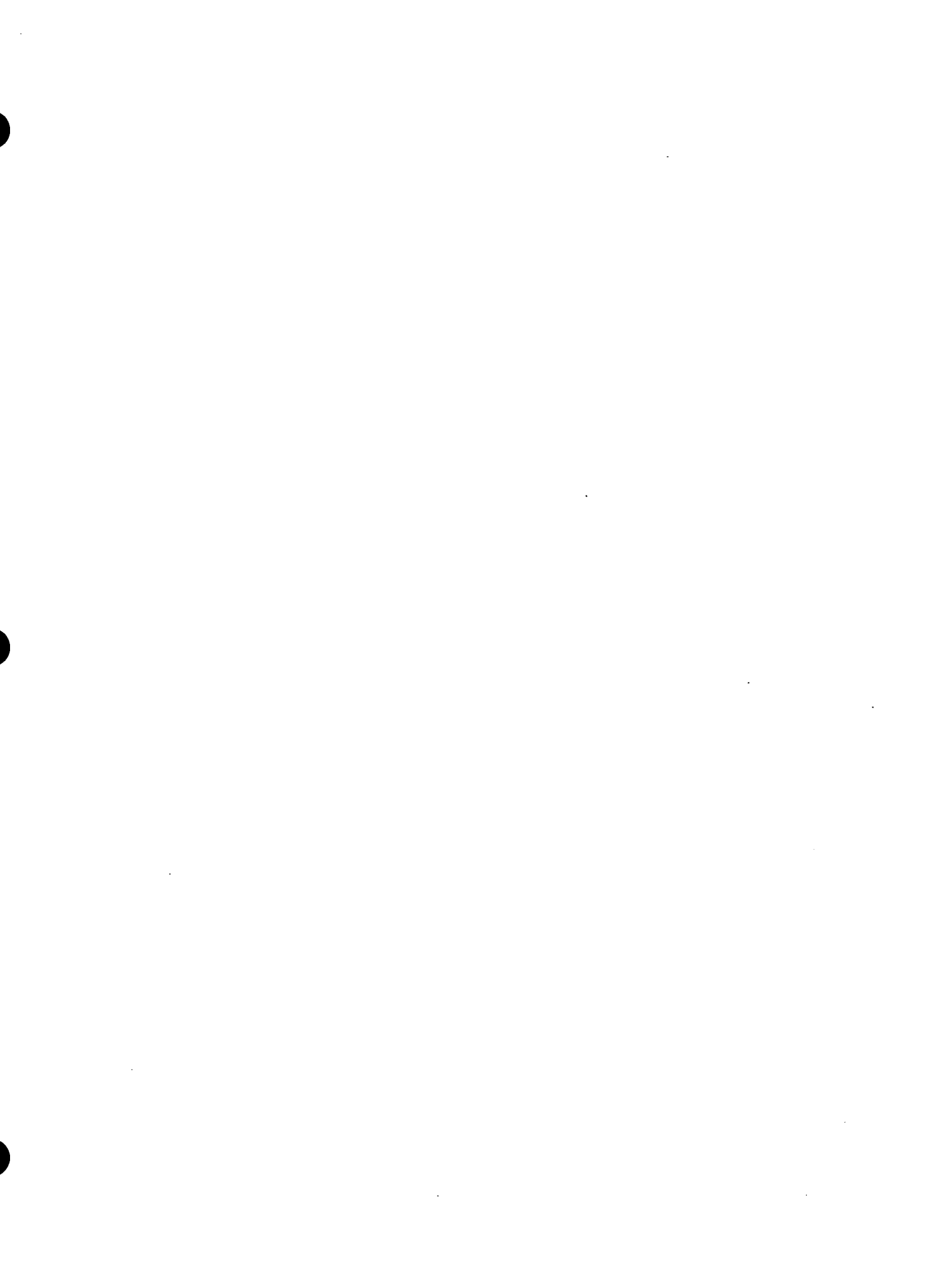
(See **FISH AND WILDLIFE, DEPARTMENT OF**)

**WORKERS' COMPENSATION**

(See **LABOR AND INDUSTRIES, DEPARTMENT OF**)

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