

February 6, 2002

OLYMPIA, WASHINGTON

ISSUE 02-03



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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

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 2002 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

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

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

John G. Schultz
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Subscription Clerk

STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

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) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (c) **EXPEDITED RULE MAKING**-includes the full text of the rule being proposed using the expedited rule-making process. Expedited rule makings are not consistently filed and may not appear in every issue of the register.
- (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.

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].

2001-2002
DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue Number	Closing Dates ¹			Distribution Date	First Agency Hearing Date ³	Expedited Rule making ⁴
	Non-OTS and 30 p. or more	Non-OTS and 11 to 29 p.	OTS ² or 10 p. max. Non-OTS	Count 20 days from -	For hearing on or after	First Agency Adoption Date
<i>For Inclusion in -</i>	<i>File no later than 12:00 noon -</i>					
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	Oct 2, 01
01 - 17	Jul 25, 01	Aug 8, 01	Aug 22, 01	Sep 5, 01	Sep 25, 01	Oct 23, 01
01 - 18	Aug 8, 01	Aug 22, 01	Sep 5, 01	Sep 19, 01	Oct 9, 01	Nov 6, 01
01 - 19	Aug 22, 01	Sep 5, 01	Sep 19, 01	Oct 3, 01	Oct 23, 01	Nov 20, 01
01 - 20	Sep 5, 01	Sep 19, 01	Oct 3, 01	Oct 17, 01	Nov 6, 01	Dec 4, 01
01 - 21	Sep 26, 01	Oct 10, 01	Oct 24, 01	Nov 7, 01	Nov 27, 01	Dec 26, 01
01 - 22	Oct 10, 01	Oct 24, 01	Nov 7, 01	Nov 21, 01	Dec 11, 01	Jan 8, 02
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02 - 24	Nov 6, 02	Nov 20, 02	Dec 4, 02	Dec 18, 02	Jan 7, 03	Feb 4, 03

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

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

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

⁴ A minimum of forty-five days is required between the distribution date of the Register giving notice of the expedited adoption and the agency adoption date. No hearing is required, but the public may file written objections. See RCW 1.12.040 and 34.05.353.

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;

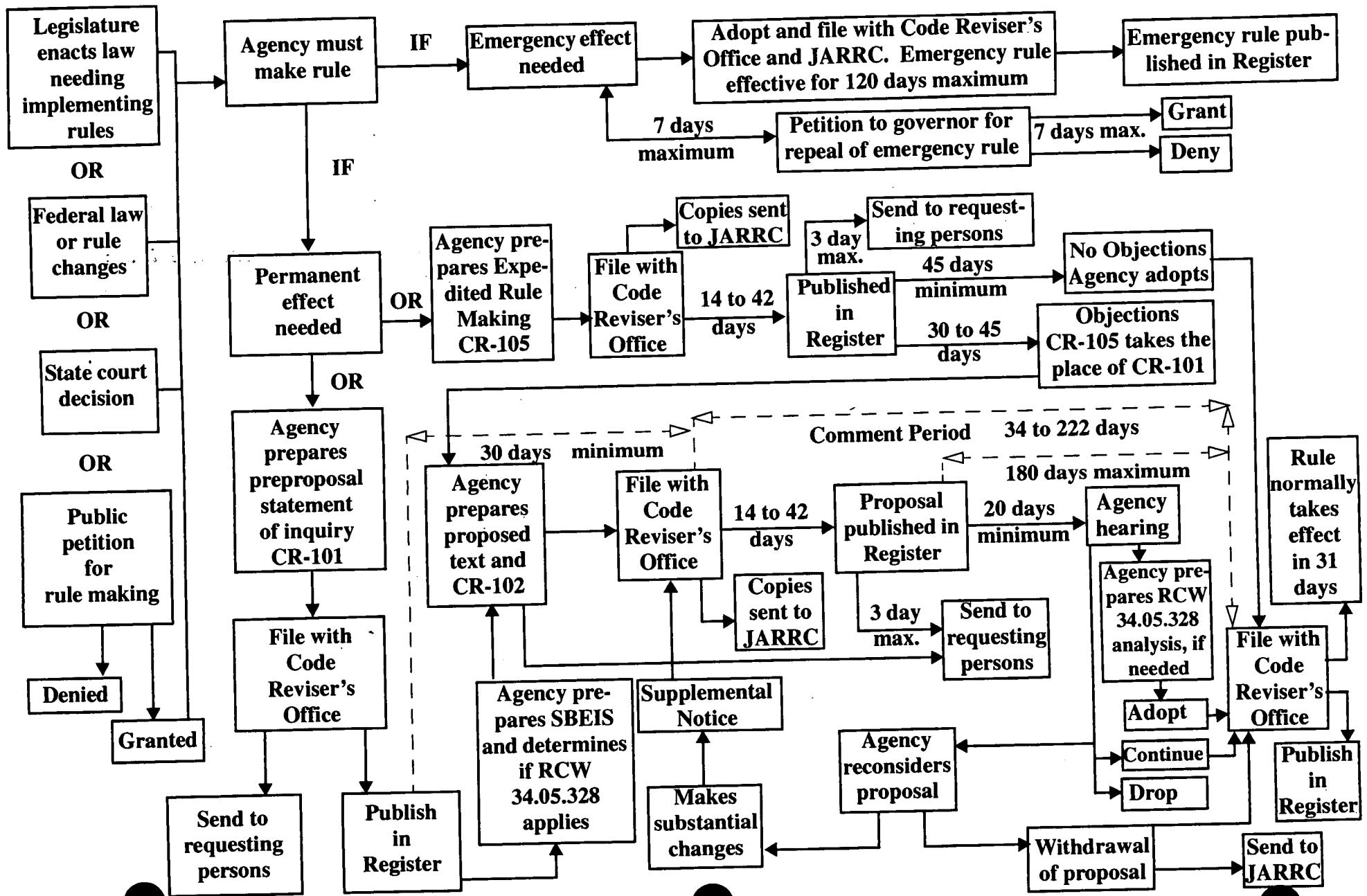
There is less than minor economic impact on business;

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



WSR 02-03-010

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)**

[Filed January 4, 2002, 8:20 a.m.]

Subject of Possible Rule Making: The Division of Child Support (DCS) is considering making new rules and amending existing rules on the question of when DCS can suspend collection of part or all of a support obligation. Affected sections include WAC 388-14A-2000, 388-14A-2025, 388-14A-2080, 388-14A-3800, 388-14A-3810, 388-14A-4000, 388-14A-4300 through 388-14A-4304; and other related sections.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 34.05.220(1), 74.20A.055, 74.20A.056, and 74.20A.310.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: DCS seeks to clarify existing practice and to create new rules stating when DCS may suspend collection of part or all of a support obligation, whether the obligation is owed under a court order or an administrative order. Parties to a child support order often make informal changes, including changing the residence of a minor child, changing the daycare arrangements, and other things which affect the amount of support which should be paid each month; while the best practice would be for the parties to modify their support order, the parties often do not have the ability to return to court. DCS' suspension of collection will not modify the order, nor will it make the nonenforced part of the obligation uncollectable. The parties may choose to go to court to enter a judgment on arrears, which DCS will then enforce.

Process for Developing New Rule: DCS engages in modified collaborative rule making. Those persons wishing to participate in developing the new rules are encouraged to contact Nancy Koptur at the DSHS-DCS headquarters as soon as possible. DCS will post information regarding this rule development project and others on its website, which can be found at www.wa.gov/dshs/dcs, or on the DSHS Economic Services Administration's Regulatory Improvement website, which can be found at <http://www-app2.wa.gov/dshs/esa/extpolicy/blue.asp>. DSHS/DCS encourages the public to take part in developing the rules. After the rules are drafted, DSHS will file a copy with the Office of the Code Reviser with a notice of proposed rule making, and will send a copy to everyone currently on the mailing list and to anyone else 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 Nancy Koptur, DCS Rules Coordinator, Division of Child Support, P.O. Box 9162, Mailstop 45860, Olympia, WA 98507-9162, phone (360) 664-5065, or 1-800-457-6202, fax (360) 664-5209, e-mail nkopur@dshs.wa.gov, TTY/TDD (360) 664-5011.

January 3, 2002

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 02-03-037

**PREPROPOSAL STATEMENT OF INQUIRY
WASHINGTON STATE LOTTERY**

[Filed January 8, 2002, 9:19 a.m.]

Subject of Possible Rule Making: Clarification of overall odds requirement in advertising.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This amendment will clarify the requirements for publishing overall odds in lottery advertising.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary Jane Ferguson, Rules Coordinator, at (360) 664-4833, fax (360) 586-6586, P.O. Box 43025, Olympia, WA 98504-3025, with any comments or questions regarding this statement of intent.

January 7, 2002

Mary Jane Ferguson
Rules Coordinator

WSR 02-03-075

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF CORRECTIONS**

[Filed January 14, 2002, 1:11 p.m.]

Subject of Possible Rule Making: Amendments to chapter 137-28 WAC, Prisons discipline.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 72.09.130, 72.01.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Refine the definitions of general and serious infractions for the purposes of prison discipline.

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 review and provide input on the proposed rules. Comments may be sent to John Nispel, rules coordinator at the address shown below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting John Nispel, Rules Coordinator, Department of Corrections, Rules, Contracts and Public Disclosure, P.O. Box 41114, Olympia, WA 98504-1114, phone

(360) 586-2160, fax (360) 664-2009, e-mail jrnispel@doc1.wa.gov.

January 11, 2002
Patria N. Robinson-Martin
Chief of Staff
for Joseph D. Lehman
Secretary

WSR 02-03-084
PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION

[Filed January 16, 2002, 1:24 p.m.]

Subject of Possible Rule Making: Chapter 180-86 WAC, Professional certification—Policies and procedures for administration of certification proceedings. Updates chapter 180-86 WAC references to chapter 180-75 WAC which has been changed to chapter 180-86 WAC; adds process for agreed orders of reprimand; adds process for voluntary surrender without proposed order of revocation; and allows reporting of suspensions to NASDTEC. This also repeals WAC 180-86-020 and 180-86-055.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.150.290(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To amend and repeal WAC references and to establish uniform rules.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, State Board of Education, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, fax (360) 586-2357, TTY (360) 664-3631. For telephone assistance contact Larry Davis at (360) 725-6024.

January 4, 2002
Larry Davis
Executive Director

WSR 02-03-086
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING

[Filed January 17, 2002, 10:54 a.m.]

Subject of Possible Rule Making: Chapter 308-96A WAC, Vehicle licensing, general procedures for licensing of special use class vehicles. To include but not limited to WAC 308-96A-101, 308-96A-110, and 308-96A-136.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.01.110, 46.16.276, 46.16.600.

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

required as a result of this review in accordance with Executive Order 97-02.

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

Process for Developing New Rule: 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 by mail Katherine Iyall Vasquez, Rules Manager, Title and Registration Services, Vehicle Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957, or by phone (360) 902-3718, fax (360) 664-0831, TTY (360) 664-8885, e-mail kvasquez@dol.wa.gov.

January 15, 2002
D. McCurley, Administrator
Title and Registration Services

WSR 02-03-087
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING
(Board of Funeral Directors and Embalmers)

[Filed January 17, 2002, 11:44 a.m.]

Subject of Possible Rule Making: To inform licensees and the public that the board intends to amend existing rules, adopt uniform rules concerning cremation, and adopt new rules concerning board policy.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.39.175.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To amend existing rules for clarity, to bring terminology in line with present industry standards, to adopt uniform rules concerning cremation of human remains for consistency between the funeral and cemetery boards, and to bring existing board policy into rule.

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 providing written comments to the Board of Funeral Directors and Embalmers, P.O. Box 9012, Olympia, WA 98507-9012, phone (360) 664-1555, fax (360) 586-4414.

January 15, 2002
Jon Donnellan
Administrator

WSR 02-03-088
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING
(Cemetery Board)

[Filed January 17, 2002, 11:46 a.m.]

Subject of Possible Rule Making: To inform licensees and the public that the board intends to amend existing rules,

adopt uniform rules concerning cremation, and adopt new rules concerning board policy.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 68.05.105.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To amend existing rules for clarity, to bring terminology in line with present industry standards, to adopt rules concerning cremation of human remains for consistency between the funeral and cemetery boards, and to bring existing board policy into rule.

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 providing written comments to the Cemetery Board, P.O. Box 9012, Olympia, WA 98507-9012, phone (360) 664-1555, fax (360) 586-4414.

January 15, 2002
Jon Donnellan
Administrator

WSR 02-03-091

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

(Division of Employment and Assistance Programs)

[Filed January 18, 2002, 3:52 p.m.]

Subject of Possible Rule Making: Amending rules in chapter 388-406 WAC to incorporate alternative methods of filing an application, electronic signatures, and to rewrite rules for clarity. The changes in chapter 388-406 WAC may include amending WAC 388-452-0005, 388-472-0005, 388-490-0005 and any related WACs. These changes may also require the addition of new rules or the repeal of some rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 74.09.530.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Food and Nutrition Service (FNS) has incorporated into the federal regulations (CFR) alternative methods of filing an application, such as by fax or other electronic transmission and that states can accept online electronic applications. FNS also incorporated into CFR that applications may be accepted with digital or electronic signatures. We need to incorporate these changes into our WAC.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Agriculture, Food and Nutrition Service (FNS) publishes federal regulations for the food stamp program in the Federal Register, Code of Federal Regulations, and through administrative notices. DSHS incorporate these regulations by adopting administrative rules for food assistance benefits in Washington state.

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 Vicky T. Robinson, Program Manager, Division of Employment and Assistance Programs, Lacey Government Center, P.O. Box 45470, Olympia, WA 98504-4570, phone (360) 413-3031, fax (360) 413-3493, e-mail ROBINVT@DSHS.WA.GOV.

January 17, 2002
Bonnie H. Jacques
for Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 02-03-092

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed January 18, 2002, 3:55 p.m.]

Subject of Possible Rule Making: Chapter 388-550 WAC, Hospital services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090 and 74.09.500.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The hospital services chapter in WAC is being revised to ensure MAA's administrative code reflects current policy and practice, and is consistent with policies of the Mental Health Division of DSHS.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Interested parties from the Mental Health Division are participating in the agency's process to adopt these rules.

Process for Developing New Rule: The department invites the interested public to review and provide input on the draft language of this rule. Draft material and information about how to participate may be obtained from 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, Rules and Publications, Medical Assistance Administration, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1342, fax (360) 586-9727, TTY 1-800-848-5429, e-mail sayrek@dshs.wa.gov.

January 17, 2002
Bonnie H. Jacques
for Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 02-03-093
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)

[Filed January 18, 2002, 3:56 p.m.]

Subject of Possible Rule Making: Pharmacy services, chapter 388-530 WAC, MAA is revising its reimbursement policy sections to ensure they are consistent with program policy; also adding a new reimbursement methodology to address problems in obtaining necessary rate-setting data; and adding language to comply with new federal requirements regarding billing units.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.09.080, 74.04.050 and, for the new billing standard requirement, 42 C.F.R. Subpart K, subsection 162.1102.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To incorporate a federally required billing standard in agency reimbursement rules; to clarify and improve reimbursement methodology language; to ensure payments reflect program intent; to correct program policy to address problems in obtaining necessary rate-setting data; to ensure program policy and payment policy are consistent; and to add a new reimbursement methodology.

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 this WAC. 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 L. Mike Freeman, Rules and Publications Program Manager, Medical Assistance Administration, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1350, e-mail freemlm@dshs.wa.gov.

January 17, 2002
 Bonnie H. Jacques
 for Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

WSR 02-03-094
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)
 (Division of Employment and Assistance Programs)
 [Filed January 18, 2002, 3:58 p.m.]

Subject of Possible Rule Making: DSHS will amend chapter 388-474 WAC and related sections to implement a change from federal to state administration of state supplemental payments and to reflect changes in eligibility rules.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: A recent RCW change gives the state the ability to self-administer the SSI state supplemental payment program. Rules must be amended to reflect this change in administration as well as changes to eligibility for this program.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Federal Public Law 92-603 and the Social Security Act publish regulations for states who must provide a state supplemental payment program. The Social Security Administration oversees state compliance with federal state supplementation rules.

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 Carole McRae, Program Manager, Division of Assistance Programs, Lacey Government Center, P.O. Box 45470, Olympia, WA 98504-5470, phone (360) 413-3074, fax (360) 413-3493, e-mail MCRAECA@DSHS.WA.GOV.

January 17, 2002
 Bonnie H. Jacques
 for Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

WSR 02-03-104
PREPROPOSAL STATEMENT OF INQUIRY
BELLEVUE COMMUNITY COLLEGE

[Filed January 22, 2002, 8:35 a.m.]

Subject of Possible Rule Making: Discrimination complaint procedure.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Expands existing Bellevue Community College discrimination complaint procedure (WAC 132H-152-135) to pertain to members of the general public who utilize campus facilities.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Education, Office for Civil Rights.

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 Lucy Macneil, Vice-President of Human Resources, Bellevue Community College, 3000 Landerholm Circle S.E., Room A101, Bellevue, WA 98007-

6484, phone (425) 564-2274, fax (425) 564-3173. Interested parties may attend the All College Council Meeting scheduled for Thursday, February 7, at 2:30 in Room B201 on the Bellevue Community College campus.

January 16, 2002
Elise J. Erickson
Rules Coordinator

WSR 02-03-105

**PREPROPOSAL STATEMENT OF INQUIRY
BELLEVUE COMMUNITY COLLEGE**

[Filed January 22, 2002, 8:37 a.m.]

Subject of Possible Rule Making: Withholding services and refunds for outstanding debts.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 34.05 RCW and RCW 28B.50.140.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The current rule allows Bellevue Community College to withhold services when a student has an outstanding debt to the college but does not allow for withholding of refunds that are due the student. This change would expand the current rule to allow the college to withhold refunds.

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 Mary Hansen, Director of Finance, Bellevue Community College, 3000 Landerholm Circle S.E., Bellevue, WA 98007-6484, phone (425) 564-4250, fax (425) 564-4259. This item will be discussed at the next meeting of the All College Council on Thursday, February 7, at 2:30 in Room B201 on the Bellevue Community College campus.

January 17, 2002
Elise J. Erickson
Rules Coordinator

WSR 02-03-115

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

[Filed January 22, 2002, 4:03 p.m.]

The Medical Assistance Administration would like to withdraw preproposal statement of inquiry, filed as WSR 99-20-049, filed on September 30, 1999.

Andy Fernando
for Brian Lindgren, Manager
Rules and Policies Assistance Unit

WSR 02-03-116

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

[Filed January 22, 2002, 4:05 p.m.]

The Medical Assistance Administration would like to withdraw preproposal statement of inquiry, filed as WSR 01-15-007, filed on July 6, 2001.

Andy Fernando
for Brian Lindgren, Manager
Rules and Policies Assistance Unit

WSR 02-03-127

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed January 23, 2002, 10:00 a.m.]

Subject of Possible Rule Making: WAC 16-303-200 Seed program testing fees, 16-303-210 Fees for special seed tests, 16-303-230 Official seed sampling or similar service, 16-303-250 Miscellaneous charges for seed services, 16-303-300 Phytosanitary certification of seed—Fees, 16-303-310 Organization for economic cooperation and development scheme for varietal certification (OECD) fees, 16-303-317 Annual and rough bluegrass quarantine fees, 16-303-320 Certification fees for seed certified by the department except grasses, and 16-303-330 Certification fees for grass seed.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 15.49.310, 15.49.370(3) and chapter 34.05 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This proposal is intended to assure that fees charged for seed program services are sufficient to recover operating costs. Seed certification fees, laboratory analysis fees and miscellaneous fees for alfalfa, grass, vegetable and other minor seed crops would be increased by the fiscal growth rate factor for the fiscal year 2002.

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 fee increase proposal will be developed by the Washington State Department of Agriculture seed program manager with input from the industry through a Seed Program Advisory Committee.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Graydon Robinson, Program Manager, Washington State Department of Agriculture, Seed Program, 21 North 1st Avenue, Suite 203, Yakima, WA 98902, phone (509) 225-2630, fax (509) 454-4395.

January 22, 2002
Robert W. Gore
Assistant Director

PREPROPOSAL

WSR 02-03-128
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE

[Filed January 23, 2002, 10:01 a.m.]

Subject of Possible Rule Making: WAC 16-403-190 Tolerances, establish 10% firmness tolerance for Jonagold and Gala apple varieties.

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: The establishment of pressure standards for Jonagold and Gala varieties of apples will provide the consumer with a high degree of firmness and crisper apple.

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

Process for Developing New Rule: Develop rule with input from various industry associations.

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, P.O. Box 42560, Olympia, WA 98504-2560, (360) 902-1833, (360) 902-2085.

January 22, 2002

Robert W. Gore
 Assistant Director

WSR 02-03-132
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE

[Filed January 23, 2002, 11:06 a.m.]

Subject of Possible Rule Making: Chapter 16-324 WAC, Rules for the certification of seed potatoes.

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: Revision of these rules may be needed to implement programmatic changes to reflect industry practices and program efficiencies and to raise testing fees by an amount not to exceed the fiscal growth factor.

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 proposals for rule changes with affected stakeholders, including the Seed Potato Commission, 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, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, fax (360) 902-2094, e-mail Mtoohey@agr.wa.gov; or Tom Wessels, Plant Services Program Manager,

Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1984, fax (360) 902-2094, e-mail Twessels@agr.wa.gov. All proposed changes will be reviewed with the Washington Seed Potato Commission and any other stakeholders.

January 23, 2002

Mary A. Martin Toohey
 Assistant Director

WSR 02-03-135
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH

[Filed January 23, 2002, 11:24 a.m.]

This is a request to withdraw the Department of Health's preproposal to adopt a new chapter of child care regulations, which was filed April 17, 1997, and published in WSR 97-09-054. This rule was intended to establish Department of Health regulations for the health inspection of child care centers. The child care health survey program moved to Department of Social and Health Services (DSHS) on July 1, 2001. For this reason, the Department of Health will not go forward with the creation of a new chapter as intended.

Individuals requiring information on child care regulations should contact Sydney Dore of DSHS at (360) 413-3290.

Mary C. Selecky
 Secretary

WSR 02-03-136
PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF HEALTH

[Filed January 23, 2002, 11:26 a.m.]

Subject of Possible Rule Making: To consider amending the newborn screening rule (chapter 246-650 WAC) to include which, if any, disorder should be included in the mandatory screening and to examine the adequacy of existing privacy protections.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 70.83, 43.20 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Chapter 70.83 RCW delegates authority to the Board of Health to determine which disorders, in addition to phenylketonuria (PKU), are to be included in newborn screening required by the statute. Current regulation requires congenital hypothyroidism, hemoglobinopathies such as sickle cell disease, and congenital adrenal hyperplasia, in addition to PKU. Medical and technological advances in recent years have made it feasible to screen for an increasing number of additional disorders. Adding disorders to the panel could further prevent illness and death through early detection and treatment of affected newborns. It is also valuable to examine the adequacy of existing privacy protections.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Health will work closely with the Board of Health in the review process.

Process for Developing New Rule: The process will involve significant public input to consider the merits of the numerous candidate disorders.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Michael Glass, Department of Health, Newborn Screening Policy Liaison, 1610 N.E. 150th, Shoreline, WA 98155-9701, phone (206) 361-2890, toll free 1-866-660-9050, fax (206) 361-4996, e-mail mike.glass@doh.wa.gov; or Doreen Garcia, Board of Health Senior Policy Analyst, P.O. Box 47990, Olympia, WA 98504-7990, phone (360) 236-4101, e-mail doreen.garcia@doh.wa.gov. The Department of Health and the State Board of Health will establish an advisory group composed of interested parties to solicit and review information and obtain broad public input regarding which disorders should be recommended to the board for adoption. Input will be sought through publicized meetings and correspondence.

Don Sloma
Executive Director

WSR 02-03-137

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF HEALTH

[Filed January 23, 2002, 11:28 a.m.]

Subject of Possible Rule Making: On-site wastewater sewage systems, chapter 246-272 WAC, with possible new chapters.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.20.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The On-site Wastewater Advisory Committee has recommended that on-site sewage system rules need to be amended to address technical, administrative and regulatory issues in the wastewater management program.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Health, Department of Ecology and local health jurisdictions all have a role in implementing on-site sewage rules and will be involved throughout rule development. In addition, the Department of Licensing, Department of Labor and Industries, and the United States Environmental Protection Agency have authority for areas that may overlap with on-site sewage rules and will be involved to ensure coordination and consistency of rules.

Process for Developing New Rule: The State Board of Health invites all interested parties to provide input into the development of on-site wastewater sewage rules. An advisory committee is being formed to develop proposed rules. There will also be opportunities to view and comment on draft rules over the Internet at <http://www.doh.wa.gov/ehp/ts/waste.htm>.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mark Soltman, Washington State Department of Health, P.O. Box 47825, Olympia, WA 98504-7825, voice (360) 236-3040, e-mail mark.soltman@doh.wa.gov; or Marianne Seifert, Washington State Board of Health, P.O. Box 47990, Olympia, WA 98504, voice (360) 236-4103, marianne.seifert@doh.wa.gov.

January 21, 2002
Don Sloma
Executive Director
State Board of Health

WSR 02-03-138

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH

[Filed January 23, 2002, 11:57 a.m.]

Subject of Possible Rule Making: Increase in medical test site fees, WAC 246-338-990; and change in fee categories, WAC 246-338-020.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.42.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: An amendment to WAC 246-338-990 is needed to increase the medical test site license fees in order to generate revenue to pay the increased fee charged by the federal government for exemption from federal regulation (CLIA). This will keep regulation of clinical laboratories at the state level rather than under federal regulation. Advantages of keeping regulation at the state level include outreach and educational services such as training classes, technical assistance, monthly newsletter, consultation and other educational materials that would not be funded under CLIA. Maintaining licensing and regulation at the state level also provides faster response time for requests from licensees and for any enforcement action that is needed.

The proposed fee schedule will set fees at the same level that they would be if the laboratories were licensed federally under CLIA. Along with the change in fees will be a restructuring of fee categories WAC 246-338-020 based on the CLIA model.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Centers for Medicare and Medicaid Services (CMS) has granted an exemption to federal regulation for clinical laboratories in Washington, as they have judged the state medical test site rules equivalent to CLIA. All activity (collection of fees, inspection of laboratories, complaint investigations, enforcement action) are conducted by the state. CMS reviews all changes made to the state medical test site rules to ensure that the state continues to meet the requirements for exemption.

Process for Developing New Rule: Since the fee increase will be above the I-601 limits for many categories of licenses, a request for exemption from I-601 is included in the Department of Health Fiscal Year 2002 supplemental budget. Department staff will work closely with interested

parties and coordinate with CMS in the development of this rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Gail Neuenschwander, 1610 N.E. 150th Street, Shoreline, WA 98155, phone (206) 361-2805, fax (206) 361-2813, e-mail Gail.Neuenschwander@doh.wa.gov.

Mary C. Selecky
Secretary

ERRATUM

Due to a clerical error, WSR 02-02-088, stated the incorrect WAC and Register number being withdrawn. Following is the correct withdrawal notice:

WAC 458-20-260, proposed by the Department of Revenue in WSR 01-13-005 appearing in issue 01-13 of the State Register, which was distributed on July 5, 2001, 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.

WSR 02-03-021
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed January 4, 2002, 4:31 p.m.]

Original Notice.

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

Title of Rule: WAC 388-450-0140 How does the income of an ineligible assistance unit member affect my eligibility and benefits for food assistance?

Purpose: Amend WAC 388-450-0140 to implement federal requirements on how the department treats the income and expenses for certain persons who are ineligible for food assistance benefits.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510.

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510.

Summary: WAC 388-450-0140 Explains how the income and expenses of people who are ineligible for food assistance can impact the eligibility and benefits of people who must be in the same food assistance unit under WAC 388-408-0035. The amount of income and expenses that the department considers as available to the eligible members varies based on the reason the person is ineligible for food assistance.

Reasons Supporting Proposal: Federal regulations require the department to count a certain amount of the income and expenses of certain ineligible household members.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Camp, Division of Employment and 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 necessary because of federal law, 7 C.F.R. 273.11 (c) 1 and 2.

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 388-450-0140 Explains how the income and expenses of people who are ineligible for food assistance can impact the eligibility and benefits of people who must be in the same food assistance unit under WAC 388-408-0035.

Proposal Changes the Following Existing Rules: This proposal implements the federal requirement to count the income of an ineligible household member to the eligible members based on the reason the person is ineligible for food assistance.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes as a result of these rules do not affect small businesses.

RCW 34.05.328 applies to this rule adoption. These rules do not meet the definition of a significant legislative rule per RCW 34.05.328 (5)(b)(vii).

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on February 26, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by February 22, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail FernAX@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 5:00 p.m., February 26, 2002.

Date of Intended Adoption: No earlier than February 27, 2001 [2002].

January 3, 2002

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-21-060, filed 10/16/01, effective 12/1/01)

WAC 388-450-0140 How does the income of an ineligible assistance unit member affect my eligibility and benefits for food assistance? The department decides who must be in your assistance unit (AU) under WAC 388-408-0035. If ~~((someone who is in your AU is an ineligible AU member, we decide how))~~ an AU member is ineligible for food assistance under WAC 388-408-0035, this affects your AU's eligibility and benefits as follows:

(1) We do not count the ineligible member(s) to determine your AU size for the gross monthly income limit, net monthly income limit, or maximum allotment under WAC 388-478-0060.

(2) If ~~((the))~~ an AU member is ineligible because they are disqualified for an intentional program violation (IPV), they failed to meet work requirements under chapter 388-444 WAC, or they are ineligible felons under WAC 388-442-0010:

(a) We count all of the ineligible member's gross income as a part of your AU's income; and

(b) We count all of the ineligible member's allowable expenses as part of your AU's expenses.

(3) If ~~((the))~~ an AU member is ~~((ineligible because they are))~~ an ineligible ABAWD under WAC 388-444-0030, is ineligible due to their alien status, ~~((they))~~ failed to sign the application to state their citizenship or alien status, or ~~((they refuse))~~ refused to get or provide us a Social Security number:

(a) ~~((We prorate the ineligible member's gross income by-~~

~~(i) Dividing the ineligible member's income by the total number of people in the AU;~~

~~(ii) Subtracting the ineligible member's share of the income; and~~

~~(iii) Counting the remaining income to the other members of the AU; and~~

~~(iv) Allowing the twenty percent earned income deduction for the ineligible member's countable earned income.~~

~~(b) If the AU is eligible for a utility allowance under WAC 388-450-0195, we include the ineligible member to determine the allowance. This includes using the ineligible member to determine the standard utility allowance (SUA).~~

~~(e) We prorate the ineligible member's expenses other than utilities by:~~

~~(i) Dividing the ineligible member's allowable expenses by the total number of people in the AU;~~

~~(ii) Subtracting the ineligible member's share of the expenses; and~~

~~(iii) Counting the remaining expenses to the other members of the AU)) We allow the twenty percent earned income disregard for the ineligible member's earned income;~~

(b) We prorate the remaining income of the ineligible member among all the AU members by excluding the ineligible member's share and counting the remainder to the eligible members; and

(c) We divide the ineligible member's allowable expenses evenly among all members of the AU when the ineligible member has income.

WSR 02-03-049

PROPOSED RULES

DEPARTMENT OF TRANSPORTATION

[Filed January 9, 2002, 4:19 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-22-093.

Title of Rule: WAC 468-38-075 Overlength exemptions and 468-38-390 Winter road conditions.

Purpose: Rule 075 provides exemptions to other WAC rules for very specific overlength vehicles, including movement restrictions found in WAC 468-38-390. Rule 390 provides movement restrictions for over-legal permitted vehicles and/or loads during winter road conditions.

Statutory Authority for Adoption: RCW 46.44.090.

Summary: The Washington State Department of Transportation is using new signs in the mountain passes, under emergency rule making, effective November 1, 2001. The signs have significant changes that communicate to the motoring public and commercial carriers when to carry and apply tire chains, and what vehicles are prohibited from moving during winter road conditions. The proposal changes the sign verbiage referenced in the two WAC rules. The proposal also clarifies the consequences of moving into a restricted area.

Reasons Supporting Proposal: The verbiage change clarifies the vehicle operators responsibility and provides the correct references for enforcement.

Name of Agency Personnel Responsible for Drafting and Implementation: Barry Diseth, Olympia, Washington, (360) 704-6346; and Enforcement: Captain Fred Fakkema, Olympia, Washington, (360) 753-0350.

Name of Proponent: Washington State Department of Transportation and the Washington State Patrol, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed amended rules provide motor carrier information regarding movement during winter road conditions. The rules reference signage used in the mountain passes. The verbiage on the signs has changed. The amendments will make the rules consistent with the signs being used. The rules are also amended to clarify consequences of moving within a restricted area. The new signs convey a clear message to vehicle operators about their responsibility during winter road conditions and provides a clearer basis for enforcement. It is expected that this clearer communication will result in fewer traffic incidents in the mountain passes during winter road conditions.

Proposal Changes the Following Existing Rules: The rule does not change in principle, however, the reference to specific sign verbiage is updated to be consistent with the signs in use, and the consequences for movement within a restricted area are spelled out in the rule.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Determined there is no significant impact to small business. The essence of the rule is not changed by the amendment, only clarified.

RCW 34.05.328 applies to this rule adoption. This rule is subject to violation by a nongovernment party.

Hearing Location: Large Commission Board Room 1D3, 310 Maple Park Avenue S.E., Olympia, WA, on March 5, 2002, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Barry Diseth, (360) 704-6346, by February 25, 2002.

Submit Written Comments to: Barry Diseth, P.O. Box 47367, Olympia, WA 98504-7367, fax (360) 704-6350, e-mail disethb@wsdot.wa.gov.

Date of Intended Adoption: March 5, 2002.

January 2, 2002

John F. Conrad

Assistant Secretary

Engineering and Operations

AMENDATORY SECTION (Amending Order 143, filed 3/11/94, effective 3/11/94)

WAC 468-38-075 Overlength exemptions. Vehicles may move by special motor vehicle permit without regard to **oversize load** signs (WAC 468-38-190), weekend curfew or holiday restrictions (WAC 468-38-230), commuter traffic restrictions (WAC 468-38-235), or night-time movement

restrictions (WAC 468-38-260), when they meet the following overlength conditions:

Tractor/trailer combinations with:

-A single trailer not exceeding fifty-six feet (including load)

-Double trailers not exceeding sixty-eight feet (including load)

-Nonreducible loads (including trailer) not exceeding sixty-one feet

-Vehicles with front overhang not exceeding four feet beyond the three foot legal limit set in RCW 46.44.034 (see also bumper criteria set in RCW 46.37.517)

-Single unit fixed load vehicles not exceeding an overall length of forty-five feet including a four foot front overhang beyond the legal three foot limit and a rear overhang not to exceed fifteen feet measured from the center of the last axle.

The aforementioned vehicles, when in compliance with WAC 204-24-050 Use of tire chains or other traction devices, are also exempt from that portion of the winter road restrictions (WAC 468-38-390) prohibiting movement in areas where ~~((any of))~~ the following sign~~((s are))~~ is displayed: ~~("Traction tires advised," "approved traction tires recommended," "approved traction tires required," or "tire chains required." The signs, however, must be obeyed.)~~ "TRACTION ADVISORY/OVERSIZE VEHICLES PROHIBITED."

AMENDATORY SECTION (Amending Order 132, filed 11/2/92, effective 12/3/92)

WAC 468-38-390 Winter road restrictions. During periods when "emergency load restrictions" or "severe emergency load restrictions" are in effect, only vehicles equipped with tires required by WAC 468-38-080 may operate under permit. ~~((Movement by permit of units whether driven, towed or hauled is prohibited in areas where any of the following signs are displayed: "Traction tires advised," "approved traction tires recommended," "approved traction tires required," or "tire chains required."))~~

~~Special permits for movements over mountain passes (Snoqualmie, Stevens, Sherman, Blewett, White and Satus) will not be valid))~~

The department of transportation or the Washington state patrol may prohibit any vehicle, whether moving by special permit for oversize and/or overweight or not, from entering a chain/approved traction device control area when it is determined the vehicle will experience difficulty in safely traveling the area. Prohibitions will generally be communicated by traffic control sign (i.e., "TRACTION ADVISORY/OVERSIZE VEHICLES PROHIBITED," "CHAINS REQUIRED ON ALL VEHICLES EXCEPT ALL-WHEEL DRIVE," "VEHICLES OVER 10,000 GVWR CHAINS REQUIRED," etc.). In addition specific vehicles or vehicle combinations may be required to operate with specified traction devices (i.e., "TRACTORS PULLING DOUBLE TRAILERS MUST CHAIN UP").

Movement into a restricted area when prohibited, or without the specified traction device, will be considered a violation of the permit, which is a traffic infraction, and subject to the penalties set forth in RCW 46.44.105.

When signs, or other traffic control methods are not present, a vehicle, or vehicle combination, operating under a

special permit for oversize, must stop movement at the nearest safe location during periods when snow is falling to a degree that visibility is limited to less than 1,000 feet; immediately following a severe storm when snow removal equipment is operating; when fog or rain limits visibility to less than 1,000 feet; or when compact snow and ice conditions require the use of chains. If hazardous conditions are encountered after a move is undertaken, it shall be the responsibility of the permittee to remove the oversize load from the highway, and ~~((he shall))~~ not proceed until conditions have abated and ~~((he has obtained))~~ clearance obtained from the nearest department of transportation office or the Washington state patrol. Failure to stop is a violation of the special permit and subject to the penalties of RCW 46.44.105.

The secretary of transportation may issue special permits for department vehicles used for snow removal or the sanding of highways during emergency winter conditions. Such permits shall also be valid for vehicles in transit to or from the work site. Limitations on movement during hours of the day or days of the week may be waived. Sign requirements may be waived if weather conditions render such signs ineffectual. Movements at night may be made only by department vehicles whose lights meet the standards for emergency maintenance vehicles established by the commission on equipment.

WSR 02-03-058

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed January 10, 2002, 10:52 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-01-088.

Title of Rule: Amend WAC 308-124A-110 Application for real estate examination, licensed in another jurisdiction.

Purpose: The Washington Real Estate Commission and the Department of Licensing propose to enter into "written reciprocity agreements" with other jurisdictions to ensure accountability for real estate agents and to better protect the public. Reciprocal agreements would allow real estate licensees from other jurisdictions to become licensed in Washington and Washington licensees to obtain license in the reciprocal jurisdiction. These agreements will eliminate cross border barriers and provide full disciplinary [no further information supplied by agency].

Statutory Authority for Adoption: RCW 18.85.040(1).

Statute Being Implemented: Chapter 18.85 RCW.

Summary: The existing rule allows for real estate licensees from other jurisdictions to become licensed in Washington by passing only the Washington law portion of the real estate exam. The proposed rule change will afford Washington licensees this same license application and exam privilege when applying to license in a reciprocal jurisdiction. It will broaden consumer choice in professional real estate services while affording the same regulatory protections.

Reasons Supporting Proposal: Eliminates barriers which impede licensees from conducting business across borders and provides for better consumer protection by achieving full

disciplinary authority over all real estate practices within Washington borders.

Name of Agency Personnel Responsible for Drafting: Jana L. Jones, Department of Licensing, Black Lake Complex, P.O. Box 2445, Olympia, WA, (360) 664-6524; Implementation and Enforcement: DOL Real Estate Program, Department of Licensing, Blake Lake Complex, P.O. Box 2445, Olympia, WA, (360) 664-6524.

Name of Proponent: Washington Real Estate Commission and the Department of Licensing, Real Estate Program, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To afford Washington real estate licensees the same license application privileges in other jurisdictions that Washington offers to license applicants from those jurisdictions. This would be accomplished by license reciprocal agreements.

Proposal Changes the Following Existing Rules: Will amend WAC 308-124A-110.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business impact is foreseen as a result of the proposed rule amendment.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: AmeriTel Inn, 4520 Martin Way, Olympia, WA 98506, on March 13, 2002, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Jana Jones by March 12, 2002, TDD (360) 753-1966, or (360) 664-6524.

Submit Written Comments to: Jana L. Jones, Assistant Administrator, Real Estate Program, P.O. Box 2445, Olympia, WA 98507-2445, fax (360) 586-0998, by March 12, 2002.

Date of Intended Adoption: March 13, 2002.

January 4, 2002

Alan E. Rathbun

Assistant Director

Business and Professions Division

AMENDATORY SECTION (Amending WSR 95-03-012, filed 1/5/95, effective 2/5/95)

WAC 308-124A-110 Application for real estate examination, licensed in another jurisdiction. (1) Any person applying for a real estate broker or real estate salesperson examination who is actively licensed in the same or greater capacity in another jurisdiction and has maintained his or her license in good standing or who was actively licensed in the same or greater capacity in good standing within the preceding six months is eligible to take the Washington law portion of the examination.

(2) Any person applying to take the examination under this section shall submit an examination application approved by the department and shall submit evidence of licensure in another jurisdiction by a license verification form completed by an administrative officer of the licensure authority in such jurisdiction.

(3) After the qualifications for the examination have been verified by the department the candidate shall telephone the testing service up to three days prior to the desired test date to schedule an examination. Candidates requesting a morning or afternoon test session shall be scheduled immediately for an examination and will be provided with a registration number confirming their reservation. On the day of the examination, the candidate shall submit the verified examination application and examination fee by cashier's check, certified check or money order to the testing service approved by the department. Cash or personal checks will not be accepted from candidates.

(4) The director, upon advice of the Washington state real estate commission, may consider entering into written recognition agreements with other jurisdictions which license real estate brokers and salespersons similarly to Washington state. The recognition agreement(s) shall require the other jurisdiction to grant the same licensing process to licensees of Washington state as is offered by Washington state to licensee applicants from other jurisdictions.

WSR 02-03-065

WITHDRAWAL OF PROPOSED RULES

SPOKANE COUNTY AIR

POLLUTION CONTROL AUTHORITY

[Filed January 10, 2002, 4:25 p.m.]

The proposed No Burn Area Boundary for Spokane County, submitted under WSR 01-20-072 on October 1, 2001, and continued under WSR 02-01-053, submitted December 12, 2001, has been withdrawn.

Crystal Alford
Air Quality Specialist

WSR 02-03-077

PROPOSED RULES

GAMBLING COMMISSION

[Filed January 14, 2002, 3:04 p.m.]

Supplemental Notice to WSR 02-01-094.

Preproposal statement of inquiry was filed as WSR 01-21-068.

Title of Rule: Card rooms: WAC 230-02-205 Gambling service supplier defined.

Purpose: Mr. Kirtland is owner of Player's Edge, a store that sells gambling related books, videos and accessories. Mr. Kirtland submitted a petition for rule change requesting the definition of a gambling service supplier be amended to include persons providing educational seminars to the public. Mr. Kirtland would like to place a craps table in his store for the purpose of teaching the public how to play the game of craps. No gambling would be involved. The table would be for instructional purposes only. The commission filed Mr. Kirtland's petition at the November 2001 commission meeting which was filed under WSR 02-01-094. Staff had some regulatory concerns regarding the petition and, therefore, pre-

pared an alternative to the petition, which addressed staff's concerns. The alternative (shown below) clarifies that classes must be conducted at a location designated by the licensee and the table must remain at the location designated by the licensee. The commission filed staff's alternative at the January 2002 commission meeting.

Statutory Authority for Adoption: RCW 9.46.070.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Lacey, (360) 486-3466; Implementation: Rick Day, Lacey, (360) 486-3446; and Enforcement: Bob Berg, Lacey, (360) 486-3452.

Name of Proponent: Staff, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose above.

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025(2), therefore a small business economic impact statement is not required.

RCW 34.05.328 does not apply to this rule adoption. This agency does not choose to make section 201, chapter 403, Laws of 1995, apply to this rule adoption.

Hearing Location: Double Tree Hotel - Pasco, 2525 North 20th Avenue, Pasco, WA 99301, (509) 547-0701, on March 15, 2002, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Shirley Corbett by March 1, 2002, TDD (360) 486-3637, or (360) 486-3447.

Submit Written Comments to: Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466, fax (360) 486-3625, by March 1, 2002.

Date of Intended Adoption: March 15, 2002.

January 11, 2002

Susan Arland

Rules Coordinator

AMENDATORY SECTION (Amending Order 380, filed 2/16/00, effective 7/1/00)

WAC 230-02-205 Gambling service supplier defined.

A "gambling service supplier" is any person who provides gambling related services for compensation, whether directly or indirectly.

(1) Gambling related services include at least the following:

(a) Providing consulting or advisory services regarding gambling activities;

(b) Providing gambling related management services;

(c) Providing financing for purchases or leases of gambling equipment or for providing infrastructure that supports gambling operations for more than one licensee. For purposes of this section, financing by any bank, mutual savings bank, or credit union regulated by the department of financial institutions or any federally regulated commercial lending institu-

tion shall not be deemed as providing gambling related services;

(d) Providing any other service or activity where influence may be exerted over any gambling activity licensed by the commission;

(e) Providing assembly of components for gambling equipment under a contract with a licensed manufacturer; ((or))

(f) Training individuals to conduct authorized gambling activities; or

(g) Providing educational and/or instructional classes or seminars pertaining to authorized gambling activities to the public. The table must remain at a permanent location designated by the licensee and the classes must be conducted at the permanent location designated by the license.

(2) The term "gambling services supplier" does not include the following:

(a) Universities and colleges that are regulated by the Washington state board of community and technical colleges and the higher education coordinating board which train individuals to conduct authorized gambling activities;

(b) Licensed manufacturers or distributors who service and repair pull-tab dispensing devices, bingo equipment or any other authorized gambling equipment;

(c) Attorneys, accountants, and governmental affairs consultants whose primary business is providing professional services that are unrelated to the management or operation of gambling activities; and

(d) Persons that only provide nonmanagement related recordkeeping services for punch board and pull-tab operators, when the combined total gross billings from such services does not exceed twenty thousand dollars during any calendar year.

WSR 02-03-085

PROPOSED RULES

UNIVERSITY OF WASHINGTON

[Filed January 17, 2002, 8:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-22-027.

Title of Rule: New chapter 478-117 WAC, Parking and traffic rules of the University of Washington, Bothell, and amendment to WAC 478-108-010 Matters subject to brief adjudication.

Purpose: To provide pedestrian, parking, and traffic rules for the colocated University of Washington, Bothell (UWB) and Cascadia Community College (CCC) campus.

Other Identifying Information: Cascadia Community College and the University of Washington will pursue identical rules governing parking and traffic at their colocated campus facilities to be adopted as part of Titles 132Z and 478 WAC respectively. Both institutions will hold a joint public hearing as part of the rule-making process.

Statutory Authority for Adoption: RCW 28B.10.560 and 28B.20.130 for chapter 478-117 WAC; chapter 34.05 RCW for WAC 478-108-010.

Statute Being Implemented: RCW 28B.10.560 and 28B.20.130 for chapter 478-117 WAC; chapter 34.05 RCW for WAC 478-108-010.

Summary: Traffic and parking rules specifically for the colocated UWB/CCC campus are needed for the safety and general welfare of the students, faculty, staff, and guests. Since both institutions share the same campus location and parking infrastructure, identical rules are being sought as chapter 478-117 WAC for the University of Washington and chapter 132Z-116 WAC for CCC. Additionally, the University of Washington seeks to amend WAC 478-108-010, the university's list of matters subject to brief adjudication, by adding the appeals process for parking and traffic violations outlined in chapter 478-117 WAC.

Reasons Supporting Proposal: With the opening of the lower campus roadway, the amount of traffic has grown significantly, requiring these rules for the safety and general welfare of the UWB/CCC campus users. Emergency rules were filed in October 2001, to provide the UWB/CCC campus with enforcement of parking and traffic rules throughout the academic year.

Name of Agency Personnel Responsible for Drafting and Enforcement: William Kelleher, Director, Facilities, Finance and Administration, UW Bothell, UW1-Rm 281C, 18115 Campus Way N.E., Bothell, WA, (425) 352-5424; Implementation: Warren W. Buck, Chancellor, UW Bothell, UW1-Rm 260G, 18115 Campus Way N.E., Bothell, WA, (425) 352-5220.

Name of Proponent: University of Washington and Cascadia Community College, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed jointly developed rules govern pedestrian and vehicular traffic and parking on the UWB/CCC campus. The purpose of these rules is to protect, control and assure safety of pedestrians and vehicular traffic on the UWB/CCC campus. The anticipated effect is to improve safety for pedestrian and vehicular traffic. Additionally, the proposed amendment to WAC 478-108-010 would add the appeals process for parking and traffic violations in chapter 478-117 WAC to the University of Washington's list of matters subject to brief adjudication.

Proposal Changes the Following Existing Rules: The following section of the Washington Administrative Code would be amended: WAC 478-108-010.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Chapter 478-117 WAC does not impose a disproportionate impact on small businesses.

RCW 34.05.328 does not apply to this rule adoption. Chapter 478-117 WAC is not considered a significant legislative rule by the University of Washington.

Hearing Location: Room LB1 205, Library/Media Center, University of Washington, Bothell, Washington, on March 1, 2002, at 12:00 noon.

Assistance for Persons with Disabilities: Contact UW Disability Services Office by February 19, 2002, TDD (206) 543-6452, or (206) 543-6450.

Submit Written Comments to: Rebecca Goodwin Deardorff, Director, Administrative Procedures Offices, via one of the following routes: 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, 2002.

Date of Intended Adoption: March 15, 2002.

January 15, 2002

Rebecca Goodwin Deardorff
Director, Administrative Procedures

AMENDATORY SECTION (Amending WSR 90-15-005, filed 7/6/90, effective 8/6/90)

WAC 478-108-010 Matters subject to brief adjudication. This rule is adopted in accordance with RCW 34.05.479 through 34.05.494, the provisions of which are hereby adopted. Brief adjudicative procedures shall be used in all matters related to:

- (1) Appeals from residency classifications under RCW 28B.15.013 as established in chapter 478-160 WAC;
- (2) Appeals from traffic and parking violations as provided for in chapters 478-116 and 478-117 WAC;
- (3) Challenges to contents of educational records as provided for in chapter 478-140 WAC;
- (4) Proceedings under the animal control policy as detailed in chapter 478-124 WAC;
- (5) Requests for reconsideration of admission decisions as provided for in chapter 478-160 WAC;
- (6) Appeals of library charges as provided in chapter 478-168 WAC;
- (7) Reviews of denials of public records requests as provided in chapter 478-276 WAC;
- (8) Federal financial aid appeals as provided for by federal law;
- (9) Collection of outstanding debts owed by students or employees; and
- (10) Appeals from areas exempt from the rules requirements of chapter 34.05 RCW including standards of admission, academic advancement, academic credit, graduation and the granting of degrees, employment relationships (except for all aspects of faculty and librarian employment relationships), and fiscal processes.

Chapter 478-117 WAC
Parking and Traffic Rules of
the University of Washington, Bothell

NEW SECTION

WAC 478-117-005 Authority. RCW 28B.50.140(10) authorizes the board of trustees of Cascadia Community College to adopt rules for pedestrian and vehicular traffic on the college campus. RCW 28B.10.560 similarly authorizes the board of regents of the University of Washington to adopt rules governing pedestrian and vehicular traffic and parking upon lands and facilities of the university. The rules set forth in this chapter have been jointly developed and agreed upon by the two institutions of higher education, and adopted and

codified in separate chapters of the Washington Administrative Code by each of the two institutions.

NEW SECTION

WAC 478-117-010 Objectives of parking and traffic rules. The objectives of these rules are:

(1) To protect and control pedestrian and vehicular traffic on the campus of University of Washington, Bothell and Cascadia Community College.

(2) To assure access at all times for emergency equipment.

(3) To minimize traffic disturbances.

(4) To facilitate the operation of the institutions by assuring access to vehicles.

(5) To allocate limited parking space for the most efficient use.

(6) To protect state property.

NEW SECTION

WAC 478-117-020 Definitions. The following definitions apply to this chapter:

(1) Campus: The colocated campus of University of Washington, Bothell and Cascadia Community College.

(2) College: Cascadia Community College, and collectively those responsible for its control and operations.

(3) Employee: An employee of the college or the university.

(4) Institutions: The college and the university.

(5) Public safety officers: Employees of the college or the university who are responsible for campus security, safety, and parking and traffic control.

(6) Student: A person enrolled in the college or the university.

(7) University: The University of Washington, Bothell, and collectively those responsible for its control and operations.

(8) Vehicle: An automobile, truck, motorcycle, motorized scooter, or bicycle.

(9) Visitor: A person who is neither an employee nor a student of the college or the university.

NEW SECTION

WAC 478-117-030 Applicable parking and traffic rules. The applicable parking and traffic rules upon the campus are:

(1) The motor vehicle and other traffic laws of the state of Washington, Title 46 RCW.

(2) The traffic code of the city of Bothell.

(3) The parking and traffic rules in this chapter. If the Washington laws or the Bothell traffic code conflicts with these rules, the Washington laws or the Bothell traffic code shall govern.

NEW SECTION

WAC 478-117-040 Enforcement of parking and traffic rules. The institutions share responsibility for parking and

traffic management on campus. Duly appointed public safety officers or independent contractors hired by the institutions are authorized to enforce these parking and traffic rules.

NEW SECTION

WAC 478-117-050 Permits required for vehicles on campus. No person shall park, or leave any vehicle (other than bicycles), whether attended or unattended, upon the campus without a permit issued by the institutions. Permission to park on campus will be shown by display of a valid permit.

(1) A valid permit is:

(a) A current vehicle permit displayed in accordance with WAC 478-117-110. Vehicle permits are valid until revoked.

(b) A temporary permit authorized by the institutions and displayed in accordance with instructions. Temporary permits are valid through the date or time on the permit.

(c) A parking permit issued by a gate attendant and displayed on the vehicle in accordance with instructions.

(d) A parking permit dispensed by machine at the campus and displayed in accordance with instructions.

(2) Parking permits are not transferable, except as provided in WAC 478-117-060 and 478-117-090.

(3) The college and university reserve the right to refuse to issue parking permits.

(4) This section does not apply to vehicles that the institutions own or operate.

(5) The institutions may allow persons without permits to drive through the campus without parking.

(6) A public safety officer may require visitors to wait at the entrances to the campus when pedestrian or vehicular traffic congestion is above normal.

NEW SECTION

WAC 478-117-060 Carpool and disability parking permits. (1) Carpool permits may be issued to employees and students. One transferable permit will be issued by the institutions for each carpool. This permit is transferable only among the registered members of the carpool. This permit must be displayed in accordance with the instructions provided with the permit. A carpool is a group of two or more employees or students who commute to the campus in the same vehicle.

(2) The institutions provide parking for the disabled in accordance with the requirements of federal and state law, including parking spots reserved for persons who display a state of Washington disabled driver permit.

NEW SECTION

WAC 478-117-070 Permit revocations. Parking permits are the property of the institutions, and may be recalled by the issuer for any of the following reasons:

(1) When the purpose for which the permit was issued changes or no longer exists.

(2) When a permit is used by an unauthorized individual.

(3) Falsification on a parking permit application.

- (4) Multiple or continued violations of parking rules.
- (5) Counterfeiting or altering permits.
- (6) Failure to comply with a final decision of the citation review committee, or institutional hearing officer.

NEW SECTION

WAC 478-117-080 Right to appeal revocation. Parking permit revocations under this chapter may be appealed pursuant to the procedures in WAC 478-117-320.

NEW SECTION

WAC 478-117-090 Transfer of permits limited. (1) Permit holders may transfer one permit between motor vehicles when used by the permit holder. Improper transfer of a permit shall include, but is not limited to, the wrongful sale, lending, or transfer of a parking permit.

(2) Permits displaying license plate numbers shall be used only in the vehicles whose license number is written on the permit.

NEW SECTION

WAC 478-117-100 Responsibility of person to whom permit issued. The person to whom a permit is issued is responsible for the vehicle upon which the permit is affixed. He or she shall be held responsible for all violations of this chapter charged to that vehicle. However, the operator of a vehicle will not be relieved of responsibility for violating any rule of this chapter simply because he or she is not also the holder of the permit.

NEW SECTION

WAC 478-117-110 Display of permits. (1) Parking permits shall be displayed by hanging from the rear view mirror or displayed face up on the dashboard of the motor vehicle and shall be fully visible from the exterior of the motor vehicle.

(2) When applicable, the area designator (numeral, letter or combination) shall be affixed to the vehicle permit and shall be fully visible from the exterior of the motor vehicle.

(3) Motorcycle and scooter permits shall be registered with the affiliated institution.

(4) Permits not fully visible from the exterior of a motor vehicle are not valid and are subject to citation for no valid permit displayed.

NEW SECTION

WAC 478-117-200 Parking fees. The institutions' governing boards shall adopt parking fees, specifying the charge per day, quarter, and year. Each institution may set its own rates for quarterly and yearly permits, but the rates for daily parking permits must be uniform for both institutions. Each institution shall sell quarterly and yearly permits to the employees and students only of its own institution. Each institution may also sell quarterly and yearly permits in its discretion to regular visitors to that institution.

NEW SECTION

WAC 478-117-210 Allocation of parking spaces. The parking space available on the campus shall be allocated in a manner that will best attain the objectives of these rules.

During special occasions causing additional or heavy traffic and during emergencies, the institutions may impose additional traffic and parking policies to achieve the specified objectives of this chapter.

NEW SECTION

WAC 478-117-220 Parking within designated spaces. (1) No motor vehicle shall be parked on the campus except in areas designated as parking areas.

(2) No vehicle shall be parked so as to occupy any portion of more than one parking space as designated within the parking area. The fact that other vehicles may have been so parked as to require the vehicle parked to occupy a portion of more than one space or stall shall not excuse a violation of this section.

NEW SECTION

WAC 478-117-230 Parking—Operator's responsibility. No person driving or in charge of a motor vehicle shall permit it to stand unattended without first:

(1) Stopping the engine, locking the ignition, and removing the key.

(2) Effectively setting the brake and transmission to prevent movement of the vehicle.

NEW SECTION

WAC 478-117-240 Regulatory signs, markings, barricades, etc. (1) The institutions may erect signs, barricades, and other structures, and paint marks and other directions upon the streets and parking areas within the campus. Drivers of vehicles shall obey the signs, barricades, structures, markings, and directions. Drivers of vehicles shall comply with directions given to them by public safety officers in the control and regulation of traffic. Drivers shall also comply with directions given to them by the traffic guides or parking checkers in the assignment of parking space and in the collection of parking fees.

(2) No person without authorization from the institutions shall move, deface, or in any way change a sign, barricade, structure, marking, or direction that regulates traffic or parking.

NEW SECTION

WAC 478-117-250 Speed. No vehicle shall be operated on the campus at a speed in excess of posted limits. If no limit is posted, no vehicle shall exceed twenty miles per hour or such lower speed as is reasonable and prudent in the circumstances.

NEW SECTION

WAC 478-117-260 Pedestrian's right of way. (1) The operator of a vehicle shall yield right of way to any pedestrian. However, no pedestrian may suddenly leave a curb or other place of safety and walk or run into the path of a vehicle that is so close that it is impossible or unsafe for the driver to yield.

(2) Whenever any vehicle slows or stops so as to yield to pedestrian traffic, the operator of any other vehicle approaching from the rear shall not overtake and pass that vehicle.

(3) Where a sidewalk is provided, pedestrians shall proceed upon the sidewalk.

NEW SECTION

WAC 478-117-270 Motorcycles, bicycles, scooters. (1) Motorcycles, bicycles, and scooters are subject to all traffic rules controlling other motor vehicles.

(2) Motorcycles and motorized scooters may be parked in designated areas in addition to the regular parking lots.

(3) Motorcycles and motorized scooters are not permitted on paths, sidewalks, or authorized bicycle or pedestrian areas, or in buildings at any time.

(4) Bicycles shall be parked in designated areas only. Improperly parked bicycles may be impounded and a citation and fine imposed upon the owner.

(5) No bicycles or foot-propelled devices shall be operated on campus corridors, hallways, or buildings unless their use is required as part of the educational process in an authorized program, or authorized by campus personnel. A "foot-propelled device" is a wheeled device designed or used for recreation or transportation, including, but not limited to, skateboards, roller skates, and roller blades.

NEW SECTION

WAC 478-117-280 Distribution of literature. No person may distribute literature by placing it on motor vehicles parked on the campus. Literature includes, but is not limited to, pamphlets, flyers, and stickers.

NEW SECTION

WAC 478-117-300 Issuance of traffic citations. Upon probable cause to believe that a violation of these rules has occurred, a public safety officer or designated contractor may issue a citation setting forth the date, the approximate time, the locality, the nature of the violation, the permit number, license number, infraction, officer, and the amount of fine(s). The citation shall be served on the person responsible for the violation by: Attaching a copy of the citation to, or placing it prominently within, the vehicle allegedly involved in the violation; mailing a copy of the citation to the person responsible; or serving a copy of the citation personally on the person responsible.

NEW SECTION

WAC 478-117-310 Fines and impounding. (1) The current schedule of fines shall be published by the institutions and made available for review in the central plant building.

(2) All fines must be paid as designated on the citation within twenty calendar days from the date of the citation. Fines must be delivered in person to the citation hearing office or postmarked on or before the due date specified in these rules to avoid additional penalties. If any citation has neither been paid nor appealed after twenty calendar days from the date of the citation, the institution shall impose an additional fine of ten dollars per offense and may:

(a) Withhold the violator's degrees, transcripts, grades, refunds, or credits until all fines are paid.

(b) Delay registration for the following quarter.

(c) Impound the violator's vehicle.

(d) Deny future parking privileges to the violator.

(e) Refuse to issue keys to a violator who is an employee or student.

(3) In addition to imposing fines, public safety officers may impound or immobilize any vehicle parked on campus in violation of these rules. The expenses of impounding, immobilization, and storage shall be charged to the owner or operator, or both, of the vehicle and must be paid before the vehicle's release. Grounds for impounding vehicles shall include, but not be limited to, the following:

(a) Blocking a roadway so as to impede the flow of traffic.

(b) Blocking a walkway so as to impede the flow of pedestrian traffic.

(c) Blocking a fire hydrant or fire lane.

(d) Creating a safety hazard.

(e) Blocking another legally parked vehicle.

(f) Parking in a marked "tow-away" zone.

(g) Leaving a vehicle unattended on campus for longer than two days.

(h) Failing to pay a fine imposed under this chapter.

Not more than twenty-four hours after impoundment of any vehicle, the institution shall mail a notice to the registered owner of the vehicle and to any other person who claims the right to possession of the vehicle, if those persons can be identified. The institutions shall not be liable for loss or damage of any kind resulting from impounding, immobilization, or storage. Impounding a vehicle does not remove the obligation for any fines associated with the violation.

(4) An accumulation of traffic violations by a student may be cause for discipline under the student conduct code of the student's institution.

NEW SECTION

WAC 478-117-320 Appeals of fines and impoundments. (1) Any impoundment or fine under this chapter may be appealed in writing within twenty calendar days from the date of the citation or the notice of impoundment. The notice of appeal must be addressed to the location indicated on the citation or notice of impoundment. The institutions will make appeal forms available at the university's cashier's office in Room UW1 176 and at the college's cashier's office

in Room CC1 103. The notice of appeal must explain the reasons for contesting the citation or impoundment. If the person who files a notice of appeal desires an opportunity to make an oral statement in the appeal, the request to make an oral statement must be included in the notice of appeal.

(2) The hearing on the appeal shall be a brief adjudicative hearing as provided by RCW 34.05.482 et seq. If a request for an oral statement was made, the presiding officer or officers shall provide reasonable notice of the time and place for receiving the oral statement. The presiding officer(s) shall review the notice of appeal and provide a written decision to the person submitting the appeal within ten days of taking action. If the appeal is denied, the decision shall include a brief statement of its reasons and information about the opportunity for further review. Any fine owed on a written decision that is not further appealed as provided in subsection (3) of this section shall be paid within twenty-one days after service of the decision.

(3) A person wishing to contest the written decision may request a review by contacting the institution in writing within twenty-one days after service of the decision. The request for review shall explain why the decision was incorrect. The reviewing officer shall, within twenty days of the date of the request, review the matter and render a final written decision, which shall include a brief statement of its reasons and information about the opportunity to appeal the decision to the district court. Any final decision of the reviewing officer not appealed as provided in subsection (4) of this section shall be paid within ten days after service of the decision.

(4) A person wishing to appeal a final decision of the citation hearing office to the district court may, within ten days of service of the final decision, file a written notice with the institution. Documents relating to the appeal shall immediately be forwarded to the district court, which shall have jurisdiction to hear the appeal de novo. No appeal to the district court may be taken unless the citation has been contested as provided in subsections (2) and (3) of this section.

NEW SECTION

WAC 478-117-400 Report of accident. The operator of any vehicle involved in an accident on campus resulting in injury to or death of any person or total or claimed damage to either or both vehicles of five hundred dollars shall, within twenty-four hours, report such accident to the campus security department. This does not relieve any person so involved in an accident from his responsibility to file a state of Washington motor vehicle accident report within twenty-four hours after such accident.

NEW SECTION

WAC 478-117-410 Liability of institutions. Except for vehicles that the institutions own or operate, the institutions assume no liability under any circumstances for vehicles on the campus.

WSR 02-03-089

PROPOSED RULES

CASCADIA COMMUNITY COLLEGE

[Filed January 18, 2002, 10:13 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-23-030.

Title of Rule: New chapter, WAC 132Z-116-005 - 132Z-116-410.

Purpose: To provide pedestrian, parking and traffic rules for the collocated Cascadia Community College (CCC) and the University of Washington, Bothell branch campus.

Other Identifying Information: Cascadia Community College and the University of Washington will pursue identical rules governing parking and traffic at their collocated campus facilities to be adopted as part of Titles 132Z and 478 WAC, respectfully. Both institutions will hold a joint public hearing as part of the rule-making process.

Statutory Authority for Adoption: RCW 28B.10.560 and 28B.20.130.

Statute Being Implemented: RCW 28B.10.560 and 28B.20.130.

Summary: Traffic and parking rules specifically for the collocated CCC/UWB campus are needed for the safety and general welfare of the students, faculty, staff and guests. Since both institutions share the same campus location and parking infrastructure, identical rules are being sought as chapter 132Z-116 WAC for CCC and chapter 478-117 WAC for the University of Washington.

Reasons Supporting Proposal: With the opening of the lower campus roadway, the amount of traffic has grown significantly, requiring these rules for the safety and general welfare of the CCC/UWB campus users. Emergency rules were filed in October 2001 to provide the CCC/UWB campus with enforcement of parking and traffic rules throughout the academic year.

Name of Agency Personnel Responsible for Drafting and Enforcement: Mr. Tom Harker, Vice-President, Financial and Information Technology, CCC 280B, 18345 Campus Way N.E., Bothell, WA 98011, (425) 352-8196; and Implementation: Dr. Victoria Richart, President, Cascadia Community College, CCC 281C, 18345 Campus Way N.E., Bothell, WA 98011, (425) 352-8810.

Name of Proponent: Cascadia Community College and the University of Washington, Bothell, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed jointly developed rules govern pedestrian and vehicular traffic and parking on the CCC/UWB campus. The purpose of these rules is to protect, control and assure safety of pedestrians and vehicular traffic on the CCC/UWB campus. The anticipated effect is to improve safety for pedestrian and vehicular traffic.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Chapter 132Z-116 WAC does not impose a disproportionate impact on small businesses.

RCW 34.05.328 does not apply to this rule adoption. Chapter 132Z-116 WAC is not considered a significant legislative rule by Cascadia Community College.

Hearing Location: Room LB1-205, Library/Media Center, Cascadia Community College/University of Washington, Bothell, Washington, on March 1, 2002, at 12 noon.

Assistance for Persons with Disabilities: Contact Enrollment Services at (425) 352-8860, by February 29, 2002.

Submit Written Comments to: Mr. Tom Harker, Vice-President for Finance and Information Technology, via one of the following routes: U.S. Mail: Cascadia Community College, 18345 Campus Way N.E., Bothell, WA 98011; Internal campus mail: Room 280B; e-mail tharker@casca-dia.ctc.edu; or fax (425) 352-8313; by March 1, 2002.

Date of Intended Adoption: March 1, 2002.

January 17, 2002

Dr. Victoria Munoz Richart
President

Chapter 132Z-116 WAC

Parking and Traffic Rules of the Cascadia Community College

NEW SECTION

WAC 132Z-116-005 Authority. RCW 28B.50.140(10) authorizes the board of trustees of Cascadia Community College to adopt rules for pedestrian and vehicular traffic on the college campus. RCW 28B.10.560 similarly authorizes the board of regents of the University of Washington to adopt rules governing pedestrian and vehicular traffic and parking upon lands and facilities of the university. The rules set forth in this chapter have been jointly developed and agreed upon by the two institutions of higher education, and adopted and codified in separate chapters of the Washington Administrative Code by each of the two institutions.

NEW SECTION

WAC 132Z-116-010 Objectives of parking and traffic rules. The objectives of these rules are:

- (1) To protect and control pedestrian and vehicular traffic on the campus of University of Washington, Bothell and Cascadia Community College.
- (2) To assure access at all times for emergency equipment.
- (3) To minimize traffic disturbances.
- (4) To facilitate the operation of the institutions by assuring access to vehicles.
- (5) To allocate limited parking space for the most efficient use.
- (6) To protect state property.

NEW SECTION

WAC 132Z-116-020 Definitions. The following definitions apply to this chapter:

- (1) Campus: The co-located campus of University of Washington, Bothell and Cascadia Community College.
- (2) College: Cascadia Community College, and collectively those responsible for its control and operations.
- (3) Employee: An employee of the college or the university.
- (4) Institutions: The college and the university.
- (5) Public safety officers: Employees of the college or the university who are responsible for campus security, safety, and parking and traffic control.
- (6) Student: A person enrolled in the college or the university.
- (7) University: The University of Washington, Bothell, and collectively those responsible for its control and operations.
- (8) Vehicle: An automobile, truck, motorcycle, motorized scooter, or bicycle.
- (9) Visitor: A person who is neither an employee nor a student of the college or the university.

NEW SECTION

WAC 132Z-116-030 Applicable parking and traffic rules. The applicable parking and traffic rules upon the campus are:

- (1) The motor vehicle and other traffic laws of the state of Washington, Title 46 RCW.
- (2) The traffic code of the city of Bothell.
- (3) The parking and traffic rules in this chapter. If the Washington laws or the Bothell traffic code conflicts with these rules, the Washington laws or the Bothell traffic code shall govern.

NEW SECTION

WAC 132Z-116-040 Enforcement of parking and traffic rules. The institutions share responsibility for parking and traffic management on campus. Duly appointed public safety officers or independent contractors hired by the institutions are authorized to enforce these parking and traffic rules.

NEW SECTION

WAC 132Z-116-050 Permits required for vehicles on campus. No person shall park, or leave any vehicle (other than bicycles), whether attended or unattended, upon the campus without a permit issued by the institutions. Permission to park on campus will be shown by display of a valid permit.

- (1) A valid permit is:
 - (a) A current vehicle permit displayed in accordance with WAC 132Z-116-110. Vehicle permits are valid until revoked.
 - (b) A temporary permit authorized by the institutions and displayed in accordance with instructions. Temporary permits are valid through the date or time on the permit.

(c) A parking permit issued by a gate attendant and displayed on the vehicle in accordance with instructions.

(d) A parking permit dispensed by machine at the campus and displayed in accordance with instructions.

(2) Parking permits are not transferable, except as provided in WAC 132Z-116-060 and 132Z-116-090.

(3) The college and university reserve the right to refuse to issue parking permits.

(4) This section does not apply to vehicles that the institutions own or operate.

(5) The institutions may allow persons without permits to drive through the campus without parking.

(6) A public safety officer may require visitors to wait at the entrances to the campus when pedestrian or vehicular traffic congestion is above normal.

NEW SECTION

WAC 132Z-116-060 Carpool and disability parking permits. (1) Carpool permits may be issued to employees and students. One transferable permit will be issued by the institutions for each carpool. This permit is transferable only among the registered members of the carpool. This permit must be displayed in accordance with the instructions provided with the permit. A carpool is a group of two or more employees or students who commute to the campus in the same vehicle.

(2) The institutions provide parking for the disabled in accordance with the requirements of federal and state law, including parking spots reserved for persons who display a state of Washington disabled driver permit.

NEW SECTION

WAC 132Z-116-070 Permit revocations. Parking permits are the property of the institutions, and may be recalled by the issuer for any of the following reasons:

(1) When the purpose for which the permit was issued changes or no longer exists.

(2) When a permit is used by an unauthorized individual.

(3) Falsification on a parking permit application.

(4) Multiple or continued violations of parking rules.

(5) Counterfeiting or altering permits.

(6) Failure to comply with a final decision of the citation review committee, or institutional hearing officer.

NEW SECTION

WAC 132Z-116-080 Right to appeal revocation. Parking permit revocations under this chapter may be appealed pursuant to the procedures in WAC 132Z-116-320.

NEW SECTION

WAC 132Z-116-090 Transfer of permits limited. (1) Permit holders may transfer one permit between motor vehicles when used by the permit holder. Improper transfer of a permit shall include, but is not limited to, the wrongful sale, lending, or transfer of a parking permit.

(2) Permits displaying license plate numbers shall be used only in the vehicles whose license number is written on the permit.

NEW SECTION

WAC 132Z-116-100 Responsibility of person to whom permit issued. The person to whom a permit is issued is responsible for the vehicle upon which the permit is affixed. He or she shall be held responsible for all violations of this chapter charged to that vehicle. However, the operator of a vehicle will not be relieved of responsibility for violating any rule of this chapter simply because he or she is not also the holder of the permit.

NEW SECTION

WAC 132Z-116-110 Display of permits. (1) Parking permits shall be displayed by hanging from the rear view mirror or displayed face up on the dashboard of the motor vehicle and shall be fully visible from the exterior of the motor vehicle.

(2) When applicable, the area designator (numeral, letter or combination) shall be affixed to the vehicle permit and shall be fully visible from the exterior of the motor vehicle.

(3) Motorcycle and scooter permits shall be registered with the affiliated institution.

(4) Permits not fully visible from the exterior of a motor vehicle are not valid and are subject to citation for no valid permit displayed.

NEW SECTION

WAC 132Z-116-200 Parking fees. The institutions' governing boards shall adopt parking fees, specifying the charge per day, quarter, and year. Each institution may set its own rates for quarterly and yearly permits, but the rates for daily parking permits must be uniform for both institutions. Each institution shall sell quarterly and yearly permits to the employees and students only of its own institution. Each institution may also sell quarterly and yearly permits in its discretion to regular visitors to that institution.

NEW SECTION

WAC 132Z-116-210 Allocation of parking spaces. The parking space available on the campus shall be allocated in a manner that will best attain the objectives of these rules.

During special occasions causing additional or heavy traffic and during emergencies, the institutions may impose additional traffic and parking policies to achieve the specified objectives of this chapter.

NEW SECTION

WAC 132Z-116-220 Parking within designated spaces. (1) No motor vehicle shall be parked on the campus except in areas designated as parking areas.

(2) No vehicle shall be parked so as to occupy any portion of more than one parking space as designated within the

parking area. The fact that other vehicles may have been so parked as to require the vehicle parked to occupy a portion of more than one space or stall shall not excuse a violation of this section.

NEW SECTION

WAC 132Z-116-230 Parking—Operator's responsibility. No person driving or in charge of a motor vehicle shall permit it to stand unattended without first:

(1) Stopping the engine, locking the ignition, and removing the key.

(2) Effectively setting the brake and transmission to prevent movement of the vehicle.

NEW SECTION

WAC 132Z-116-240 Regulatory signs, markings, barricades, etc. (1) The institutions may erect signs, barricades, and other structures, and paint marks and other directions upon the streets and parking areas within the campus. Drivers of vehicles shall obey the signs, barricades, structures, markings, and directions. Drivers of vehicles shall comply with directions given to them by public safety officers in the control and regulation of traffic. Drivers shall also comply with directions given to them by the traffic guides or parking checkers in the assignment of parking space and in the collection of parking fees.

(2) No person without authorization from the institutions shall move, deface, or in any way change a sign, barricade, structure, marking, or direction that regulates traffic or parking.

NEW SECTION

WAC 132Z-116-250 Speed. No vehicle shall be operated on the campus at a speed in excess of posted limits. If no limit is posted, no vehicle shall exceed twenty miles per hour or such lower speed as is reasonable and prudent in the circumstances.

NEW SECTION

WAC 132Z-116-260 Pedestrian's right of way. (1) The operator of a vehicle shall yield right of way to any pedestrian. However, no pedestrian may suddenly leave a curb or other place of safety and walk or run into the path of a vehicle that is so close that it is impossible or unsafe for the driver to yield.

(2) Whenever any vehicle slows or stops so as to yield to pedestrian traffic, the operator of any other vehicle approaching from the rear shall not overtake and pass that vehicle.

(3) Where a sidewalk is provided, pedestrians shall proceed upon the sidewalk.

NEW SECTION

WAC 132Z-116-270 Motorcycles, bicycles, scooters. (1) Motorcycles, bicycles, and scooters are subject to all traffic rules controlling other motor vehicles.

(2) Motorcycles and motorized scooters may be parked in designated areas in addition to the regular parking lots.

(3) Motorcycles and motorized scooters are not permitted on paths, sidewalks, or authorized bicycle or pedestrian areas, or in buildings at any time.

(4) Bicycles shall be parked in designated areas only. Improperly parked bicycles may be impounded and a citation and fine imposed upon the owner.

(5) No bicycles or foot-propelled devices shall be operated on campus corridors, hallways, or buildings unless their use is required as part of the educational process in an authorized program, or authorized by campus personnel. A "foot-propelled device" is a wheeled device designed or used for recreation or transportation, including but not limited to skateboards, roller skates, and roller blades.

NEW SECTION

WAC 132Z-116-280 Distribution of literature. No person may distribute literature by placing it on motor vehicles parked on the campus. Literature includes but is not limited to pamphlets, flyers, and stickers.

NEW SECTION

WAC 132Z-116-300 Issuance of traffic citations. Upon probable cause to believe that a violation of these rules has occurred, a public safety officer or designated contractor may issue a citation setting forth the date, the approximate time, the locality, the nature of the violation, the permit number, license number, infraction, officer, and the amount of fine(s). The citation shall be served on the person responsible for the violation by: attaching a copy of the citation to, or placing it prominently within, the vehicle allegedly involved in the violation; mailing a copy of the citation to the person responsible; or serving a copy of the citation personally on the person responsible.

NEW SECTION

WAC 132Z-116-310 Fines and impounding. (1) The current schedule of fines shall be published by the institutions and made available for review in the Central Plant Building.

(2) All fines must be paid as designated on the citation within twenty calendar days from the date of the citation. Fines must be delivered in person to the citation hearing office or postmarked on or before the due date specified in these rules to avoid additional penalties. If any citation has neither been paid nor appealed after twenty calendar days from the date of the citation, the institution shall impose an additional fine of ten dollars per offense and may:

(a) Withhold the violator's degrees, transcripts, grades, refunds, or credits until all fines are paid.

(b) Delay registration for the following quarter.

(c) Impound the violator's vehicle.

(d) Deny future parking privileges to the violator.

(e) Refuse to issue keys to a violator who is an employee or student.

(3) In addition to imposing fines, public safety officers may impound or immobilize any vehicle parked on campus

in violation of these rules. The expenses of impounding, immobilization, and storage shall be charged to the owner or operator, or both, of the vehicle and must be paid before the vehicle's release. Grounds for impounding vehicles shall include, but not be limited to the following:

- (a) Blocking a roadway so as to impede the flow of traffic.
- (b) Blocking a walkway so as to impede the flow of pedestrian traffic.
- (c) Blocking a fire hydrant or fire lane.
- (d) Creating a safety hazard.
- (e) Blocking another legally parked vehicle.
- (f) Parking in a marked "tow-away" zone.
- (g) Leaving a vehicle unattended on campus for longer than two days.
- (h) Failing to pay a fine imposed under this chapter.

Not more than twenty-four hours after impoundment of any vehicle, the institution shall mail a notice to the registered owner of the vehicle and to any other person who claims the right to possession of the vehicle, if those persons can be identified. The institutions shall not be liable for loss or damage of any kind resulting from impounding, immobilization, or storage. Impounding a vehicle does not remove the obligation for any fines associated with the violation.

(4) An accumulation of traffic violations by a student may be cause for discipline under the student conduct code of the student's institution.

NEW SECTION

WAC 132Z-116-320 Appeals of fines and impoundments. (1) Any impoundment or fine under this chapter may be appealed in writing within twenty calendar days from the date of the citation or the notice of impoundment. The notice of appeal must be addressed to the location indicated on the citation or notice of impoundment. The institutions will make appeal forms available at the university's cashiers office in Room UW1 176 and at the college's cashiers office in Room CC1 103. The notice of appeal must explain the reasons for contesting the citation or impoundment. If the person who files a notice of appeal desires an opportunity to make an oral statement in the appeal, the request to make an oral statement must be included in the notice of appeal.

(2) The hearing on the appeal shall be a brief adjudicative hearing as provided by RCW 34.05.482 et seq. If a request for an oral statement was made, the presiding officer or officers shall provide reasonable notice of the time and place for receiving the oral statement. The presiding officer(s) shall review the notice of appeal and provide a written decision to the person submitting the appeal within ten days of taking action. If the appeal is denied, the decision shall include a brief statement of its reasons and information about the opportunity for further review. Any fine owed on a written decision that is not further appealed as provided in subsection (3) of this section shall be paid within twenty-one days after service of the decision.

(3) A person wishing to contest the written decision may request a review by contacting the institution in writing within twenty-one days after service of the decision. The request for review shall explain why the decision was incor-

rect. The reviewing officer shall, within twenty days of the date of the request, review the matter and render a final written decision, which shall include a brief statement of its reasons and information about the opportunity to appeal the decision to the district court. Any final decision of the reviewing officer not appealed as provided in subsection (4) of this section shall be paid within ten days after service of the decision.

(4) A person wishing to appeal a final decision of the citation hearing office to the district court may, within ten days of service of the final decision, file a written notice with the institution. Documents relating to the appeal shall immediately be forwarded to the district court, which shall have jurisdiction to hear the appeal de novo. No appeal to the district court may be taken unless the citation has been contested as provided in subsections (2) and (3) of this section.

NEW SECTION

WAC 132Z-116-400 Report of accident. The operator of any vehicle involved in an accident on campus resulting in injury to or death of any person or total or claimed damage to either or both vehicles of \$500, shall within twenty-four hours report such accident to the campus security department. This does not relieve any person so involved in an accident from his responsibility to file a state of Washington motor vehicle accident report within twenty-four hours after such accident.

NEW SECTION

WAC 132Z-116-410 Liability of institutions. Except for vehicles that the institutions own or operate, the institutions assume no liability under any circumstances for vehicles on the campus.

**WSR 02-03-095
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed January 18, 2002, 4:02 p.m.]

Original Notice.

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

Title of Rule: WAC 388-151-020 Who needs to be licensed?, 388-151-097 What if I do not pay the civil penalty?, 388-151-230 What requirements must I meet for medication management?, and 388-155-320 Outdoor play area.

Purpose: When these rules were adopted in January 2001, there were four technical errors in which certain words were not formatted according to statutory requirements. The code reviser noticed the discrepancy and made notes of the needed changes by putting the words in brackets. The WACs need to be corrected so that the bracketed words are legally recognized. This filing will correct the technical errors made in these WACs when they were amended in WSR 01-02-031.

The language in these WACs will not be altered by these proposed amendments.

Statutory Authority for Adoption: Chapter 74.15 RCW.
Statute Being Implemented: Chapter 74.15 RCW.

Summary: This is to implement technical changes due to material in the original filing that did not conform to the statutory requirements.

Reasons Supporting Proposal: The rules need to be corrected. The existing rules are not correct.

Name of Agency Personnel Responsible for Drafting: Leslie Edwards-Hill, 1009 College Street S.E., Lacey, WA 98504-5480, (360) 413-3289; Implementation: Mike Tornquist, 1009 College Street S.E., Lacey, WA 98504-5480, (360) 413-3282; and Enforcement: Rachael Langen, 1009 College Street S.E., Lacey, WA 98504-5480, (360) 413-3209.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: This filing will correct an error in the original filing in which some segments of text were not properly formatted as being new text. This resulted in a code reviser's note being attached to these WACs noting the error. This filing does not change the language in any way except to properly insert the text that was not properly added during the last revision.

Proposal does not change existing rules. No, this proposal does not change the existing rules in any way.

No small business economic impact statement has been prepared under chapter 19.85 RCW. It was earlier determined that there was not significant economic impact to the rule changes. This filing does not change the rule that is already in effect.

RCW 34.05.328 does not apply to this rule adoption. This rule is exempt under RCW 34.05.328 (5)(b)(iv) in that it corrects typographical errors with [without] changing the effect of the rule.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on February 26, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by February 22, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@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, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., February 26, 2002.

Date of Intended Adoption: Not earlier than February 27, 2002.

January 17, 2002
Bonita H. Jacques
for Brian H. Lindgren, Manager
Rules and Polices Assistance Unit

AMENDATORY SECTION (Amending WSR 01-02-031, filed 12/22/00, effective 1/22/01)

WAC 388-151-020 Who needs to be licensed? (1) The person or organization operating a school-age child care center 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 (~~if chapter 74.15 RCW exempts the person or organization from the licensing requirements~~) if chapter 74.15 RCW exempts the person or organization from the licensing requirements. The person or organization claiming an exemption 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:

Child care	Recreational
The child care facility assumes responsibility for the child and his welfare.	Children are free to come and go as they choose.
Children are signed in and can only be released to an authorized adult.	No responsibility is assumed in lieu of parent.
A specific registration procedure and required forms must be completed.	No registration form or procedure.
Must adhere to DSHS standards; has specific requirements regarding staff-child ratio and group size.	No required staff-child ratio or group size requirements.
Specific DSHS requirements regarding policies and procedures are in a parent handbook.	No specific detailed policies and procedures. General "house rules" apply at each site.
There are specific program goals and activities; calendars of activities are posted and available.	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.

AMENDATORY SECTION (Amending WSR 01-02-031, filed 12/22/00, effective 1/22/01)

WAC 388-151-097 What if I do not pay the civil ~~penalty~~ penalty? The department may suspend, revoke or not renew a license for failure to pay a civil monetary penalty the department has assessed within ten days after such assessment becomes final.

PROPOSED

AMENDATORY SECTION (Amending WSR 01-02-031, filed 12/22/00, effective 1/22/01)

WAC 388-151-230 What requirements must I meet for medication management? You may have a policy of not giving medication to the child in care. If your center's health care plan includes giving medication to the child in care, you:

(1) 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) 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) 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) 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) 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) Must keep medication, refrigerated or nonrefrigerated, in an orderly fashion and inaccessible to the child;

(7) Must store external medication in a compartment separate from internal medication;

(8) Must keep a record of medication disbursed;

(9) Must return to the parent or other responsible party, or must dispose of medications no longer being taken; and

(10) May, at your option, permit self-administration of medication by a child in care if:

(a) The child is physically and mentally capable of properly taking medication without assistance;

(b) You include in the child's file a parental or physician's written statement of the child's capacity to take medication (~~((without))~~) without assistance; and

(c) You have stored the child's medications and other medical supplies so the medications and medical supplies are inaccessible to other children in care.

AMENDATORY SECTION (Amending WSR 00-06-040, filed 2/28/00, effective 3/30/00)

WAC 388-155-320 Outdoor play area. (1) The licensee must provide a safe and securely-fenced or department-approved, enclosed outdoor play area:

(a) Adjoining directly the indoor premises; or

(b) Reachable by a safe route and method; and

(c) Promoting the child's active play, physical development, and coordination; and

(d) Protecting the child from unsupervised exit with an enclosure at least forty-eight inches high; and

(e) Preventing child access to roadways and other dangers.

(2) The licensee must ensure the home's activity schedule affords the child sufficient daily time to participate actively in outdoor play.

(3) The licensee must provide a variety of age appropriate play equipment for climbing, pulling, pushing, riding, and balancing activities. The licensee must arrange, design, construct, and maintain equipment and ground cover to prevent the child's injury. The licensee's quantity of outdoor play equipment must offer the child a range of outdoor play options.

~~(((4) Preschool children and younger must be in visual and auditory range when outside.~~

~~(5) School-age children must be in auditory range when outside.))~~

(4) Preschool children and younger must be in visual and auditory range when outside.

(5) School-age children must be in auditory range when outside.

WSR 02-03-096

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed January 18, 2002, 4:07 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-22-082.

Title of Rule: Amendments to WAC 388-14A-3130 What happens if a parent makes a timely request for hearing on a support establishment notice?, 388-14A-3925 Who can ask to modify an administrative support order?, 388-14A-5520 What happens if I make a timely objection to a notice of retained support? 388-14A-5525 What happens at the hearing on a notice of retained support?, and 388-14A-5530 Can I request a late hearing on a notice of retained support?

Purpose: The Division of Child Support (DCS) is planning to amend the rules regarding mailings by the Office of Administrative Hearings by certified mail. Sending the notice of hearing, initial decision and other OAH forms by first class mail would result in substantial savings for DCS.

Statutory Authority for Adoption: RCW 34.05.220(1), 74.08.090, 74.20A.055, 74.20A.056.

Statute Being Implemented: RCW 34.05.434, 34.05.440, 34.05.461.

Summary: DCS is planning to amend the rules regarding mailings by the Office of Administrative Hearings by certified mail. Sending the notice of hearing, initial decision and other OAH forms by first class mail would result in substantial savings for DCS.

Reasons Supporting Proposal: Significant anticipated cost savings to the agency.

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

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: DCS is planning to amend the rules regarding mailings by the Office of Administrative Hearings by certified mail. Sending the notice of hearing, initial decision and other OAH forms by first class mail would result in substantial savings for DCS.

Proposal Changes the Following Existing Rules: Amendments to WAC 388-14A-3130 What happens if a parent makes a timely request for hearing on a support establishment notice?, 388-14A-3925 Who can ask to modify an administrative support order?, 388-14A-5520 What happens if I make a timely objection to a notice of retained support?, 388-14A-5525 What happens at the hearing on a notice of retained support?, and 388-14A-5530 Can I request a late hearing on a notice of retained support?

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not have an economic impact on small businesses. It only affects individuals who have support obligations or individuals who are owed child support.

RCW 34.05.328 applies to this rule adoption. The rule does meet the definition of a significant legislative rule but DSHS/DCS is exempt from preparing further analysis under RCW 34.05.328 (5)(b)(vii).

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on February 26, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by February 22, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@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, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., February 26, 2002.

Date of Intended Adoption: Not earlier than February 27, 2002.

January 17, 2002

Bonnie H. Jacques

for Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 00-15-016 and 00-20-022, filed 7/10/00 and 9/25/00, effective 11/6/00)

WAC 388-14A-3130 What happens if a parent makes a timely request for hearing on a support establishment notice? (1) A timely request for hearing is an objection made within the time limits of WAC 388-14A-3110. For late (or untimely) hearing requests, see WAC 388-14A-3135.

(2) If either parent makes a timely request for hearing, the division of child support (DCS) submits the hearing request to the office of administrative hearings (OAH) for scheduling.

(3) OAH sends a notice of hearing by ((certified)) first class mail to all parties at their address last known to DCS, notifying each party of the date, time and place of the hearing. DCS, the noncustodial parent, and the custodial parent are all parties to the hearing.

(4) A timely request for hearing stops the support establishment notice from becoming a final order, so DCS cannot collect on the notice. However, in appropriate circumstances, the administrative law judge (ALJ) may enter a temporary support order under WAC 388-14A-3850.

(5) A hearing on an objection to a support establishment notice is for the limited purpose of resolving the NCP's accrued support debt and current support obligation. The NCP has the burden of proving any defenses to liability.

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-3925 Who can ask to modify an administrative support order? (1) The division of child support (DCS), the custodial parent (CP) or the noncustodial parent (NCP) may request a hearing to prospectively modify the NCP's obligation under a support establishment notice. The request must be in writing and must state:

- (a) Any circumstances that have changed; and
- (b) The proposed new support amount.

(2) The petitioning party must file the request for modification with DCS.

(3) DCS serves a copy of the request for modification and notice of hearing on all other parties((:

~~(a) By first class mail, if the parties have been advised in a court or administrative order of the requirement to keep DCS advised of their addresses; or~~

~~(b) By certified mail, return receipt requested or personal service if the support order does not require the parties to tell DCS their address)) by first class mail at their address last known to DCS.~~

(4) DCS, the administrative law judge (ALJ), or the department review judge:

(a) Prospectively modifies orders according to the terms of chapter 26.19 RCW and RCW 74.20A.059; and

(b) May only modify an order issued by a tribunal in another state according to the terms of RCW 26.21.580.

(5) If the nonpetitioning party fails to appear at the hearing, the ALJ issues a default order based on the Washington state child support schedule and the worksheets submitted by the parties, considering the terms set out in the request for modification.

(6) If the petitioning party fails to appear at the hearing, the ALJ enters an order dismissing the petition for modification.

(7) If the petition for modification does not comply with the requirements of subsection (1)(a) and (b) of this section, the ALJ may:

(a) Dismiss the petition; or

(b) Continue the hearing to give the petitioning party time to amend according to WAC 388-14A-3275 or to complete the petition.

(8) The ALJ may set the effective date of modification as the date the order is issued, the date the request was made, or any time in between. If an effective date is not set in the order, the effective date is the date the modification order is entered.

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-5520 What happens if I make a timely objection to a notice of retained support? (1) Any debtor who objects to all or any part of a notice of retained support may, within twenty days from the date of service of the notice, file an application for an administrative hearing. An objection under this section is the same thing as a general denial of liability to the department.

(2) The notice of retained support does not become final until there is a final administrative order.

(3) If the objection is timely, the department serves the notice of hearing on the appellant or the appellant's representative by ~~((certified))~~ first class mail ~~((or another method showing proof of receipt))~~.

(4) The department must notify the appellant that it is the appellant's responsibility to notify the department of the appellant's mailing address at the time the application is filed and also of any change of address after filing the application. Mailing by ~~((certified mail, return receipt requested,))~~ first class mail to the last address provided by the appellant constitutes service under chapters 74.20A and 34.05 RCW.

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-5525 What happens at the hearing on a notice of retained support? (1) An administrative hearing on a notice of retained support is limited to the determination of the ownership of the amounts claimed in the notice or the reasonableness of a repayment agreement offered to a public assistance recipient for recovering child support under RCW 74.20A.270 and WAC 388-14A-5505.

(2) The department has the burden of proof to establish ownership of the support money claimed, including but not limited to amounts not yet disbursed or spent.

(3) The administrative law judge (ALJ) must allow the division of child support (DCS) to orally amend the notice of retained support at the hearing to conform to the evidence. The ALJ may grant a continuance, if necessary, to allow the debtor additional time to present evidence or argument in response to the amendment.

(4) The ALJ serves a copy of the initial decision on DCS and the debtor or the debtor's representative by ~~((certified))~~ first class mail to the last address provided by each party ~~((or by another method showing proof of receipt))~~.

(5) If the debtor fails to appear at the hearing, the ALJ, upon a showing of valid service of the notice of retained support, enters an initial decision and order declaring that the amount of the support money claimed in the notice, is subject to collection action under chapter 74.20A RCW.

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-5530 Can I request a late hearing on a notice of retained support? (1) Within one year from the date the division of child support (DCS) serves a notice of retained support, the person, firm, corporation, association, political subdivision or any officer or agent thereof may petition DCS for a hearing, upon a showing of any of the grounds listed in RCW 4.72.010 or CR 60.

(2) A copy of the objection must be served by ~~((certified mail, return receipt requested, or by service in the manner of a summons in a civil action))~~ first class mail on the district field office of DCS.

(3) The filing of the petition does not stay any collection action that DCS has taken, but the debtor may petition the secretary or the secretary's designee for an order staying collection action pending final decision of the secretary or the secretary's designee or the courts on an appeal made under chapter 34.05 RCW.

(4) Any money held or taken by collection action before any such stay and any support money claimed by the department, including amounts to be received in the future, to which the department may have a claim, must be held in trust pending the final decision and appeal, if any, to be disbursed in accordance with the final decision.

(5) If someone files a petition for a hearing, the department serves the notice of hearing on the appellant, the appellant's attorney, or other designated representative by ~~((certified mail or other method showing proof of receipt))~~ first class mail.

(6) The department notifies the appellant that the appellant must notify the department of the appellant's mailing address at the time the petition is filed and also of any change of address after filing the petition. Mailing by ~~((certified mail, return receipt requested,))~~ first class mail to the last address provided by the appellant constitutes service under chapters 74.20A and 34.05 RCW.

WSR 02-03-097
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 [Filed January 18, 2002, 4:10 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-21-096.

Title of Rule: WAC 388-478-0075 Monthly income standards based on the federal poverty level (FPL).

Purpose: Adds the 220% FPL standard for the new healthcare for workers with disabilities (HWD) program.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, 74.09.500, and 74.09.510; section 1902 (a)(10)(A)(ii)(XV) and (XVI) of the Social Security Act.

Statute Being Implemented: Section 1902 (a)(10)(A)(ii)(XV) and (XVI) of the Social Security Act.

Summary: The proposed rule implements the income standards for the healthcare for workers with disabilities (HWD) program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, Mailstop 45534, Olympia, WA 98504-5534, (360) 725-1330.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Summary above.

Proposal Changes the Following Existing Rules: This rule creates only a new income standard.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule has no impact on small businesses. It affects eligibility for medical assistance programs.

RCW 34.05.328 applies to this rule adoption. This rule does meet the definition of significant legislative rule, however, DSHS eligibility rules are exempt under RCW 34.05.328 (5)(b)(vii).

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on February 26, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by February 8, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@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, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., February 26, 2002.

Date of Intended Adoption: Not sooner than February 27, 2002.

January 17, 2002
 Bonnie H. Jacques
 for Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-18-056, filed 8/30/01, effective 9/30/01)

WAC 388-478-0075 Medical programs—Monthly income standards based on the federal poverty level (FPL). (1) The department bases the income standard upon the Federal Poverty Level (FPL) for the following medical programs:

(a) Children's health program up to one hundred percent of FPL;

(b) Pregnant women's program up to one hundred eighty-five percent of FPL;

(c) Children's categorically needy program up to two hundred percent of FPL; ((and))

(d) Healthcare for workers with disabilities (HWD) up to two hundred twenty percent of FPL; and

(e) The children's health insurance program (CHIP) is over two hundred percent of FPL but under two hundred fifty percent of FPL.

(2) Beginning April 1, 2001, the monthly FPL standards are:

FAMILY SIZE	100% FPL	185% FPL	200% FPL	<u>220% FPL</u>	250% FPL
1	\$716	\$1325	\$1432	<u>\$1575</u>	\$1790
2	\$968	\$1790	\$1935	<u>\$2129</u>	\$2419
3	\$1220	\$2256	\$2439	<u>\$2683</u>	\$3048
4	\$1471	\$2722	\$2942	<u>\$3236</u>	\$3678
5	\$1723	\$3187	\$3445	<u>\$3790</u>	\$4307
6	\$1975	\$3653	\$3949	<u>\$4344</u>	\$4936
7	\$2226	\$4118	\$4452	<u>\$4897</u>	\$5565
8	\$2478	\$4584	\$4955	<u>\$5451</u>	\$6194
9	\$2730	\$5094	\$5459	<u>\$6005</u>	\$6823
10	\$2981	\$5515	\$5962	<u>\$6558</u>	\$7453
Add to the ten person standard for each person over ten:					
	\$252	\$466	\$504	<u>\$554</u>	\$630

(3) There are no resource limits for the programs under this section.

WSR 02-03-098
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 [Filed January 18, 2002, 4:13 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-17-052.

Title of Rule: Amending WAC 388-533-0400 Maternity care and newborn delivery.

Purpose: The department recognizes that smoking during pregnancy is associated with poor maternal, fetal, and infant outcomes. In order to help improve these outcomes, the department is adding coverage for smoking cessation counseling/education services for Medicaid pregnant women. The rule clearly states who is eligible for the pro-

PROPOSED

gram, who may provide and be reimbursed for program services, and the specific services for which providers are reimbursed.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.760, 74.09.770.

Statute Being Implemented: RCW 74.09.770.

Summary: The department is implementing a smoking cessation counseling/education program for Medicaid pregnant women. The proposed rule states who is eligible for this program, who may provide and be reimbursed for program services, and specifics about the program services and reimbursement.

Reasons Supporting Proposal: Smoking cessation is one of the most important actions a woman can take to improve the outcome of her pregnancy. Therefore, the department is adding coverage for smoking cessation counseling/education to its maternity-related services.

Name of Agency Personnel Responsible for Drafting: Ann Myers, 925 Plum Street S.E., Olympia, WA 98501, (360) 725-1345; Implementation and Enforcement: Diane Tiffany, 649 Woodland Square Loop Road, Lacey, WA 98502, (360) 725-1655.

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 proposed rule implements a smoking cessation counseling/education program for Medicaid pregnant women.

The purpose is to improve pregnancy outcomes for this population.

The anticipated effect is improved pregnancy outcomes for this population.

Proposal Changes the Following Existing Rules: The rule proposed establishes a smoking cessation counseling/education program for Medicaid pregnant women. This program is in addition to MAA's other maternity-related services.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rules and concludes that they will have no more than a minor impact on the small businesses affected by them. Therefore, preparation of a comprehensive small business economic impact statement is not required.

RCW 34.05.328 applies to this rule adoption. The department has analyzed the proposed rule and concludes that it "makes significant amendments to a policy or regulatory program." Therefore the department concludes that the rule meets the definition of a "significant legislative rule." An analysis of the probable costs and probable benefits is available from the person listed above.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on February 26, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by February 22, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@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, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., February 26, 2002.

Date of Intended Adoption: No sooner than February 27, 2002.

January 17, 2002

Bonnie H. Jacques

for Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 00-23-052, filed 11/13/00, effective 12/14/00)

WAC 388-533-0400 Maternity care and newborn delivery. (1) 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.

(a) "**Birthing center**" means a specialized facility licensed as a childbirth center by the department of health (DOH) under chapter 246-349 WAC.

(b) "**Bundled services**" means those services that are integral to a major procedure that may be bundled with the major procedure for the purposes of reimbursement. Under this chapter, certain bundled services must be billed separately (unbundled) when the services are provided by different providers.

(c) "**Facility fee**" means that portion of MAA's reimbursement that covers the hospital or birthing center charges. This does not include MAA's reimbursement for the professional fee defined below.

(d) "**Global fee**" means the fee MAA pays for total obstetrical care. Total obstetrical care includes all bundled antepartum care, delivery services and postpartum care.

(e) "**High-risk**" pregnancy means any pregnancy that poses a significant risk of a poor birth outcome.

(f) "**Professional fee**" means that portion of MAA's reimbursement that covers the services that rely on the provider's professional skill or training, or the part of the reimbursement that recognizes the provider's cognitive skill. (See WAC 388-531-1850 for reimbursement methodology).

(2) MAA covers full scope maternity care and newborn delivery services to its clients who qualify for categorically needy (CN) or medically needy (MN) scope of care (see WAC 388-462-0015 for client eligibility). See subsection (21) of this section for client eligibility limitations for smoking cessation counseling provided as part of antepartum care services.

(3) MAA does not provide full scope maternity care and delivery services to its clients who qualify for medically indigent (MI) scope of care (see WAC 388-462-0015 for client eligibility). Clients who qualify for MI scope of care have hospital delivery coverage only.

(4) MAA does not provide maternity care and delivery services to its clients who are eligible for:

(a) Family planning only (a pregnant client under this program should be referred to the local community services office for eligibility review); or

(b) Any other program not listed in this section.

(5) MAA requires providers of maternity care and newborn delivery services to meet all of the following. Providers must:

(a) Be currently licensed by the state of Washington's department of health (DOH) and/or department of licensing;

(b) Have signed core provider agreements with MAA;

(c) Be practicing within the scope of their licensure; and

(d) Have valid certifications from the appropriate federal or state agency, if such is required to provide these services (e.g., federally qualified health centers (FQHCs), laboratories certified through the Clinical Laboratory Improvement Amendment (CLIA), etc.).

(6) MAA covers total obstetrical care services (reimbursed under a **global fee**). Total obstetrical care includes all of the following:

(a) Routine antepartum care that begins in any trimester of a pregnancy;

(b) Delivery (intrapartum care/birth) services; and

(c) Postpartum care. This includes family planning counseling.

(7) When an eligible client receives all the services listed in subsection (6) of this section from one provider, MAA reimburses that provider in one of the following ways:

(a) Through a global obstetrical fee; or

(b) Through separate fees in any combination:

(i) First trimester antepartum care;

(ii) Second trimester antepartum care;

(iii) Third trimester antepartum care;

(iv) Delivery services (intrapartum care); and

(v) Postpartum care.

(8) When an eligible client receives services from more than one provider, MAA reimburses each provider for the services furnished. The separate services that MAA reimburses appear in subsection (7)(b) of this section.

(9) MAA reimburses for antepartum care services in one of the following two ways:

(a) Under a global fee (for total obstetrical care); or

(b) Under separate trimester care fees.

(10) MAA's fees for antepartum care include all of the following:

(a) An initial and any subsequent patient history;

(b) All physical examinations;

(c) Recording and tracking the client's weight and blood pressure;

(d) Recording fetal heart tones;

(e) Routine chemical urinalysis (including all urine dipstick tests); and

(f) Maternity counseling.

(11) MAA covers certain antepartum services in addition to the **bundled services** listed in subsection (10) of this section. MAA reimburses separately for any the following:

(a) A prenatal assessment fee for a pregnant client (limited to one prenatal assessment fee per pregnancy per provider);

(b) An enhanced prenatal management fee (a monthly fee for medically necessary increased prenatal monitoring). MAA provides a list of diagnoses and/or conditions that MAA identifies as justifying more frequent monitoring visits. MAA reimburses for either (b) or (c) of this subsection, but not both;

(c) A prenatal management fee for "**high-risk**" maternity clients. This monthly fee is payable to either a physician or a certified nurse midwife. MAA reimburses for either (b) or (c) of this subsection, but not both;

(d) Necessary prenatal laboratory tests except routine chemical urinalysis, including all urine dipstick tests, as described in subsection (10)(e) of this section; and/or

(e) Treatment of medical problems that are not related to the pregnancy. MAA pays these fees to physicians or advanced registered nurse practitioners.

(12) MAA covers high-risk pregnancies. MAA considers a pregnant client to have a high-risk pregnancy when the client:

(a) Has any high-risk medical condition (whether or not it is related to the pregnancy); or

(b) Has a diagnosis of multiple births.

(13) MAA covers delivery services for clients with high-risk pregnancies, described in subsection (12) of this section, when the delivery services are provided in a hospital.

(14) MAA covers the **facility fee** for delivery services in the following settings:

(a) Inpatient hospital; or

(b) Birthing centers.

(15) MAA covers the **professional fee** for delivery services in the following settings:

(a) Hospitals, to a provider who meets the criteria in subsection (5) of this section and who has privileges in the hospital;

(b) Planned home birth settings for providers who are participating in MAA's home birth pilot project; or

(c) **Birthing centers**, as described in WAC 388-533-0600.

(16) MAA covers hospital delivery services for an eligible client as defined in subsections (2), (3), and (4)(b) of this section. MAA's bundled reimbursement for the professional fee for hospital delivery services include:

(a) The admissions history and physical examination;

(b) The management of uncomplicated labor (intrapartum care);

(c) The vaginal delivery of the newborn (with or without episiotomy or forceps); and

(d) Cesarean delivery of the newborn.

(17) MAA pays only a labor management fee to a provider who begins intrapartum care and unanticipated medical complications prevent that provider from following through with the birthing services.

(18) In addition to the MAA reimbursement for professional services in subsection (16) of this section, MAA may reimburse separately for services provided by any of the following professional staff:

(a) A stand-by physician in cases of high risk delivery and/or newborn resuscitation;

(b) A physician assistant when delivery is by cesarean section;

(c) A registered nurse - "first assist" when delivery is by cesarean section;

(d) A physician, advanced registered nurse practitioner, or licensed midwife for newborn examination as the delivery setting allows; and/or

(e) An obstetrician/gynecologist specialist for external cephalic version and consultation.

(19) In addition to the professional delivery services fee in subsection (16) or the global/total fees (i.e., those that include the hospital delivery services) in subsections (6) and (7) of this section, MAA allows additional fees for any of the following:

(a) High-risk vaginal delivery;

(b) Multiple vaginal births. MAA's typical reimbursement covers delivery of the first child. For each subsequent child, MAA reimburses at fifty percent of the provider's usual and customary charge, up to MAA's maximum allowable fee; or

(c) High-risk cesarean section delivery.

(20) MAA does not reimburse separately for any of the following:

(a) More than one child delivered by cesarean section during a surgery. MAA's cesarean section surgery fee covers one or multiple surgical births;

(b) Post-operative care for cesarean section births. This is included in the surgical fee. Post-operative care is not the same as or part of postpartum care.

(21) In addition to the services listed in subsection (11) of this section, MAA covers counseling for tobacco dependency for eligible pregnant women through two months post-pregnancy. This service is commonly referred to as smoking cessation education or counseling.

(a) MAA covers smoking cessation counseling for only those fee-for-service clients who are eligible for categorically needy (CN) scope of care. See (f) of this subsection for limitations on prescribing pharmacotherapy for eligible CN clients. Clients enrolled in managed care may participate in a smoking cessation program through their plan.

(b) MAA pays a fee to certain providers who include smoking cessation counseling as part of an antepartum care visit or a post-pregnancy office visit (which must take place within two months following live birth, miscarriage, fetal death, or pregnancy termination). MAA reimburses only the following providers for smoking cessation counseling:

(i) Physicians;

(ii) Physician assistants (PA) working under the guidance and billing under the provider number of a physician;

(iii) Advanced registered nurse practitioners (ARNP), including certified nurse midwives (CNM); and

(iv) Licensed midwives (LM).

(c) MAA covers one smoking cessation counseling session per client, per day, up to ten sessions per client, per pregnancy. The provider must keep written documentation in the client's file for each session. The documentation must reflect the information in (e) of this subsection.

(d) MAA covers two levels of counseling. Counseling levels are:

(i) Basic counseling (fifteen minutes), which includes (e)(i), (ii), and (iii) of this subsection; and

(ii) Intensive counseling (thirty minutes), which includes the entirety of (e) of this subsection.

(e) Smoking cessation counseling consists of providing information and assistance to help the client stop smoking. Smoking cessation counseling includes the following steps (refer to MAA's physician-related services (RBRVS) and births and birthing centers billing instructions for specific counseling suggestions and billing requirements):

(i) Asking the client about her smoking status;

(ii) Advising the client to stop smoking;

(iii) Assessing the client's willingness to set a quit date;

(iv) Assisting the client to stop smoking, which includes developing a written quit plan with a quit date. If the provider considers it appropriate for the client, the "assisting" step may also include prescribing smoking cessation pharmacotherapy as needed (see (f) of this subsection); and

(v) Arranging to track the progress of the client's attempt to stop smoking.

(f) A provider may prescribe pharmacotherapy for smoking cessation for a client when the provider considers the treatment is appropriate for the client. MAA covers certain pharmacotherapy for smoking cessation as follows:

(i) MAA covers Zybona' only;

(ii) The product must meet the rebate requirements described in WAC 388-530-1125;

(iii) The product must be prescribed by a physician, ARNP, or physician assistant;

(iv) The client for whom the product is prescribed must be eighteen years of age or older;

(v) The pharmacy provider must obtain prior authorization from MAA when filling the prescription for pharmacotherapy; and

(v) The prescribing provider must include both of the following on the client's prescription:

(A) The client's estimated or actual delivery date; and

(B) Indication that the client is participating in smoking cessation counseling.

(g) MAA's reimbursement for smoking cessation counseling is subject to post-pay review. See WAC 388-502-0230, Provider review and appeal, and WAC 388-502-0240, Audits and the audit appeal process for contractors/providers, for information regarding review and appeal processes for providers.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 02-03-099

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed January 18, 2002, 4:17 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-20-048.

Title of Rule: Amending WAC 388-534-0100 EPSDT and new section WAC 388-534-0200 Enhanced payments for EPSDT screens for children receiving foster care placement services from the Department of Social and Health Services (DSHS).

Purpose: The department is implementing a program to encourage providers to increase the number of children receiving foster care placement services who receive early periodic screening, diagnosis and treatment (EPSDT) screens, and if necessary, subsequent referrals for treatment. Providers may receive an enhanced payment for providing EPSDT screens to these children. The department is also eliminating the name "healthy kids" from this rule, so the state program name will be the same as the federal program (EPSDT).

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 42 C.F.R. Part 441, Subpart B.

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, and 42 C.F.R. Part 441, Subpart B.

Summary: The department is implementing a program of enhanced payments to providers who furnish EPSDT screens to children receiving foster care placement services, in order to increase the number of these children who receive such screens.

Reasons Supporting Proposal: Increasing the number of children receiving foster care placement services who receive EPSDT screens will promote earlier prevention, detection and treatment of possible medical problems in this population.

Name of Agency Personnel Responsible for Drafting: Ann Myers, 925 Plum Street S.E., Olympia, WA 98501, (360) 725-1345; Implementation and Enforcement: Ann Egerton, 649 Woodland Square Loop Road, Lacey, WA 98502, (360) 725-1633.

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 proposed rule will provide enhanced payments to providers who furnish EPSDT screens to children receiving foster care services from the department.

The proposed rule is intended to increase the number of foster care children who receive EPSDT screens.

The anticipated effect of the proposed rule is to increase the number of foster care children who receive EPSDT screens.

Proposal Changes the Following Existing Rules: The rule described above is primarily a new rule that establishes enhanced payments to providers who furnish EPSDT screens for children receiving foster care placement services from the department. The rule also changes the name of the state program from "Healthy Kids" to "EPSDT" so it is the same as the federal program name.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rule and concludes that it will have no

more than a minor impact on the small businesses affected by it, therefore no small business economic impact statement is required.

RCW 34.05.328 applies to this rule adoption. The department has analyzed the proposed rule and concludes that it makes "significant amendments to a policy or regulatory program." Therefore the department concludes that the rule meets the definition of a "significant legislative rule." An analysis of the probable costs and probable benefits is available from the person listed above.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on February 26, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by February 22, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@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, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., February 26, 2002.

Date of Intended Adoption: No sooner than February 27, 2002.

Bonnie H. Jacques
for Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-02-076, filed 12/29/00, effective 1/29/01)

WAC 388-534-0100 ((~~Healthy kids~~))EPSDT. (1) Persons who are eligible for Medicaid are eligible for ((~~healthy kids (HK))~~) coverage through the early and periodic screening, diagnosis, and treatment (EPSDT) program 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~~)) EPSDT 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~~)) EPSDT is that the services, treatment or other measures are:

- (i) Medically necessary;
- (ii) Safe and effective; and
- (iii) Not experimental.

(b) ((~~Healthy kids~~)) EPSDT 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~~)) EPSDT program are the specific numerical limits in WAC 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~~)) EPSDT. 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))~~ EPSDT. 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.

NEW SECTION

WAC 388-534-0200 Enhanced payments for EPSDT screens for children receiving foster care placement services from the department of social and health services (DSHS). The medical assistance administration (MAA) reimburses providers an enhanced flat fee for EPSDT screens provided to children receiving certain foster care placement services from the department of social and health services (DSHS). See MAA's EPSDT billing instructions for specific billing code requirements and the fee.

(1) For the purposes of this section, foster care is defined as twenty-four hour per day, temporary, substitute care for a child:

(a) Placed away from the child's parents or guardians in licensed, paid, out-of-home care; and

(b) For whom the department or a licensed or certified child placing agency has placement and care responsibility.

(2) MAA pays an enhanced flat fee to the providers listed in subsection (3) of this section for EPSDT screens provided to only those children receiving foster care placement services from DSHS.

(3) The following providers are eligible to perform EPSDT screens and bill MAA the enhanced rate for children receiving foster care placement services from DSHS:

(a) EPSDT clinics;

(b) Physicians;

(c) Advanced registered nurse practitioners (ARNPs);

(d) Physician assistants (PAs) working under the guidance and MAA provider number of a physician;

(e) Nurses specially trained through the department of health (DOH) to perform EPSDT screens; and

(f) Registered nurses working under the guidance and MAA provider number of a physician or ARNP.

(4) In order to be paid an enhanced fee, services furnished by the providers listed in subsection (3) of this section must meet the federal requirements for EPSDT screens at 42 CFR Part 441 Subpart B, which were in effect as of December 1, 2001.

(5) The provider must retain documentation of the EPSDT screens in the client's medical file. The provider must use the DSHS Well Child Exam forms or provide equivalent information. DSHS Well Child Exam forms are available at no charge by sending a request in writing or by fax to:

DSHS Warehouse

PO Box 45816

Olympia, WA. 98504-5816

Fax: 360-664-0597

(6) MAA conducts evaluations of client files and payments made under this program. MAA may recover the enhanced payment amount when:

(a) The client was not receiving foster care placement services from DSHS as defined in subsection (1) of this section when the EPSDT screen was provided; or

(b) Documentation was not in the client's medical file (see subsection (5) of this section).

WSR 02-03-100

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed January 18, 2002, 4:20 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-21-010.

Title of Rule: Amending WAC 388-410-0020 What happens if I get more food assistance benefits than I am supposed to get?, 388-410-0025 Am I responsible for an overpayment in my assistance unit?, and 388-410-0030 How does the department calculate and set up my food assistance overpayment?, and new section WAC 388-410-0033 How and when does the department collect a food assistance overpayment?

Purpose: The Division of Employment and Assistance Programs is amending WAC sections in chapter 388-410 WAC and creating a new section to implement federal regulations for the food stamp program.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 7 C.F.R. 273.18.

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 7 C.F.R. 273.18.

Summary: WAC 388-410-0020, explains the three types of food assistance overpayments and the department's timeframes to set up each type of overpayment; WAC 388-410-0025, explains who is liable for a food assistance overpayment; WAC 388-410-0030, explains how the department calculates a food assistance overpayment; and WAC 388-410-0033, explains when and how the department collects a food assistance overpayment.

Reasons Supporting Proposal: Federal regulations require that the department set up and collect funds paid under the food stamp program when a client receives more benefits than they should have under federal and state rules.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Camp, Division of Employment and 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 necessary because of federal law, 7 C.F.R. 273.18.

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 388-410-0020, explains the three types of food assistance overpayments and the department's time-

PROPOSED

frames to set up each type of overpayment; WAC 388-410-0025, explains who is liable for a food assistance overpayment; WAC 388-410-0030, explains how the department calculates a food assistance overpayment; and WAC 388-410-0033, explains when and how the department collects a food assistance overpayment.

Proposal does not change existing rules. This proposal clarifies existing rules for food assistance overpayments.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes as a result of these rules do not affect small businesses.

RCW 34.05.328 does not apply to this rule adoption. These rules do not meet the definition of significant legislative rule per RCW 34.05.328 (5)(b)(vii).

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on February 26, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by February 22, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernax@dshs.wa.gov [fernaax@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, e-mail fernax@dshs.wa.gov, by 5:00 p.m., February 26, 2002.

Date of Intended Adoption: Not earlier than February 27, 2002.

January 17, 2002
Bonnie H. Jacques
for Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-14-032, filed 6/28/01, effective 8/1/01)

WAC 388-410-0020 What ~~((are the types of))~~ **happens if I get more food assistance ((overpayments)) benefits than I am supposed to get?** (1) If you ~~((have an overpayment, you received))~~ get more assistance benefits than you were supposed to ~~((receive. Your overpayment can be))~~ get,

your assistance unit (AU) has a food assistance overpayment. There are three types of food assistance overpayments:

(a) ~~((An))~~ **Administrative error overpayment** ~~((if caused by an action or failure to take action by the department; or))~~: When you received too many benefits because the department made a mistake.

(b) ~~((An))~~ **Inadvertent household error overpayment** ~~((if caused by either your misunderstanding or unintended error; or))~~: When you received too many benefits because you made a mistake or didn't understand what you were supposed to do.

(c) ~~((An))~~ **Intentional program violation (IPV) overpayment** ~~((if caused by something you did on purpose. See))~~: When you received too many benefits because you broke a food stamp rule on purpose. If you have an IPV, you could be disqualified from receiving food assistance benefits under chapter 388-446 WAC.

(2) ~~((We set up an administrative overpayment when we:~~

(a) ~~Discover the overpayment within twelve months of its occurrence; and~~

(b) ~~Mail the household a recovery demand letter and the overpayment calculation within twenty-four months of discovery date.~~

(3) ~~We set up an inadvertent household error overpayment when we:~~

(a) ~~Discover the overpayment within twenty-four months of its occurrence; and~~

(b) ~~Mail the household a recovery demand letter and the overpayment calculation within twenty-four months of discovery date.~~

(4) ~~We set up an intentional program violation overpayment when we:~~

(a) ~~Discover the overpayment within seventy-two months of its occurrence; and~~

(b) ~~Mail the household a recovery demand letter and the overpayment calculation within twenty-four months of discovery date.)~~ The department must set up and start collecting an overpayment within certain timeframes. If we do not meet both of the timeframes below based on the type of overpayment your AU has, we will not set up an overpayment:

<u>(a) Administrative error overpayment:</u>	<u>(b) Inadvertent household error overpayment:</u>	<u>(c) Intentional program violation overpayment:</u>
<u>We must discover the overpayment within twelve months of the date you were overpaid; and</u>	<u>We must discover the overpayment within twenty-four months of the date you were overpaid; and</u>	<u>We must discover the overpayment within seventy-two months of the date you were overpaid; and</u>
<u>We must mail your household a recovery demand letter and overpayment calculation within twenty-four months of the date that we discovered you were overpaid.</u>	<u>We must mail your household a recovery demand letter and overpayment calculation within twenty-four months of the date that we discovered you were overpaid.</u>	<u>We must mail your household a recovery demand letter and overpayment calculation within twenty-four months of the date that were discovered you were overpaid.</u>

AMENDATORY SECTION (Amending WSR 01-14-032, filed 6/28/01, effective 8/1/01)

WAC 388-410-0025 (~~Who is~~) Am I responsible for (~~food~~) an overpayment in my assistance (~~overpayments~~) unit? (~~(1) When your assistance unit receives more food assistance benefits than it was entitled to receive, the department sets up an overpayment claim.~~

(2) All adult members of your assistance unit at the time of a food assistance overpayment are each responsible for the total overpayment amount until the overpayment is paid. You remain responsible even if you change assistance units) If your assistance unit (AU) gets more food assistance benefits than it was supposed to get, your AU has an overpayment. If you have an overpayment, the department determines the amount you were overpaid and sets up a claim to recover this overpayment.

(1) We set up an overpayment for the full amount your AU was overpaid for every adult AU member at the time your AU was overpaid.

(2) Each adult member is responsible for the whole overpayment until we recover the entire amount of the overpayment. We do not collect more than the amount your AU was overpaid.

(3) If we determine you are responsible for an overpayment, you are responsible for the overpayment even if you are now in a different AU than you were when you had the overpayment.

AMENDATORY SECTION (Amending WSR 01-14-032, filed 6/28/01, effective 8/1/01)

WAC 388-410-0030 How does the department calculate and (~~recover a~~) set up my food assistance overpayment? (1) The department calculates the amount of your food assistance overpayment by counting the difference between:

(a) The benefits (~~actually authorized~~) your assistance unit (AU) received; and

(b) The benefits (~~that~~) your AU should have (~~been authorized~~) received.

(2) (~~We reduce your overpayment by an underpayment if the underpayment amount was:~~

(a) ~~Not previously returned to you; and~~

(b) ~~Not already used to reduce a different overpayment.~~

(3) We establish and take action to collect all overpayments discovered through the department's quality control system regardless of:

(a) The overpayment amount; and

(b) Whether or not you are currently receiving food assistance.

(4) Except for subsection (4) of this section, we take action to collect all inadvertent household or administrative error claims unless:

(a) The entire overpayment claim is canceled by an underpayment;

(b) The claim is one hundred twenty five dollars or less and the claim cannot be recovered by benefit reduction;

(c) The department cannot locate a responsible assistance unit member; or

(d) The department determines collection action will negatively affect an inadvertent household error case referred for possible prosecution or administrative disqualification.

(5) We take action to collect an intentional program violation overpayment unless:

(a) Your assistance unit has repaid the overpayment;

(b) Responsible assistance unit members cannot be located; or

(c) The department determines collection action will negatively affect the case against an assistance unit member referred for prosecution.

(6) You may repay an overpayment by:

(a) A lump sum;

(b) Regular installments under a payment schedule as specified in subsection (8) of this section; or

(c) Benefit reduction.

(7) Currently participating assistance units responsible for an overpayment may repay by a negotiated monthly installment amount. The repayment amount must be greater than the amount that could be recovered through benefit reduction. The payment schedule may be renegotiated by either the department or the assistance unit.

(8) We automatically reduce your monthly benefits when you are responsible for an administrative or inadvertent household error; and you:

(a) Fail to notify us of your chosen repayment agreement; or

(b) Fail to request a fair hearing and continued benefits within ten days of receipt of the department's collection action notice.

(9) Except for your initial benefits when first certified, we can reduce your monthly benefits to repay the overpayment.

(a) If you have an administrative or inadvertent household error overpayment, we reduce your benefits by the greater of:

(i) Ten percent of your monthly benefits; or

(ii) Ten dollars per month.

(b) If you have an intentional program violation overpayment, we reduce your benefits by the greater of:

(i) Twenty percent of your monthly benefits; or

(ii) Twenty dollars per month.

(10) If you are responsible for an intentional program violation claim, you must chose a repayment agreement within ten days of receipt of your collection action notice. Failing to do so will subject you to involuntary reduction of your current benefit amount.

(11) We automatically reduce your current food assistance benefits when you fail to meet the terms of an agreed repayment schedule unless you:

(a) Catch up with all overdue payments; or

(b) Request re-negotiation of the payment schedule.

(12) If you are no longer receiving food assistance, we must refer your overpayment claim for federal collection if the claim is delinquent for one hundred eighty or more days. Federal collection includes reducing your income tax refund or social security benefits. Your claim is delinquent if you have not:

(a) Repaid the entire overpayment by the due date; or

~~(b) Met the requirements of your scheduled repayment agreement.~~

~~(13) If you are no longer receiving food assistance, we can garnish your wages, file a lien against your personal or real property, or otherwise access your property to collect the overpayment amount.~~

~~(14) We suspend collection action when:~~

~~(a) A responsible assistance unit member cannot be located; or~~

~~(b) Cost of further collection action is likely to exceed the amount that can be recovered.~~

~~(15) We can negotiate the amount of an overpayment if the amount offered approximates the net amount expected to be collected prior to the end of the legal collection period.~~

~~(16) At the end of the collection period, we write off unpaid overpayments and release any applicable liens when:~~

~~(a) There is no further possibility of collection;~~

~~(b) There was an accepted offer of compromise leaving an unpaid balance after payment; or~~

~~(c) There is an unpaid balance remaining after a case has been in suspense for three consecutive years.~~

~~(17) We may collect an assistance unit's overpayments from another state if the originating state does not intend to pursue collection and provides the following:~~

~~(a) Documentation of the overpayment computation and overpayment notice prepared for the client; and~~

~~(b) Proof of service showing the client received the overpayment notice)) To calculate the benefits your AU should have received, we determine what we would have authorized if we:~~

~~(a) Had correct and complete information; and~~

~~(b) Followed all the necessary procedures to determine your AU's eligibility and benefits.~~

~~(3) If you were underpaid food assistance benefits for a period of time, we will use these benefits to reduce your overpayment if:~~

~~(a) We have **not** already issued you benefits to replace what you were underpaid; and~~

~~(b) We have **not** used this amount to reduce another overpayment.~~

~~(4) We set up an inadvertent household error or administrative error overpayment if:~~

~~(a) We discovered the overpayment through the quality control process;~~

~~(b) You currently get food assistance benefits; or~~

~~(c) The overpayment is over one hundred twenty-five dollars and you do not currently get food assistance benefits.~~

~~(5) We do not set up inadvertent household error or administrative error overpayment if:~~

~~(a) We cannot find the responsible AU members; or~~

~~(b) We have referred your inadvertent household error for prosecution or an administrative disqualification hearing and collecting the overpayment could negatively impact this process.~~

~~(6) We set up an intentional program violation overpayment unless:~~

~~(a) Your AU has repaid the overpayment;~~

~~(b) We cannot find the responsible AU members; or~~

(c) We have referred your inadvertent household error for prosecution and collecting the overpayment could negatively impact this process.

NEW SECTION

WAC 388-410-0033 How and when does the department collect a food assistance overpayment? (1) You can repay your overpayment by:

(a) Paying the entire amount at once;

(b) Having us take the amount of your overpayment out of your EBT account;

(c) Making regular installments under a payment schedule as specified in subsection (3) of this section; or

(d) Having your current food assistance benefits reduced.

(2) If you have an inactive EBT account and we cancelled food assistance benefits in the account under WAC 388-412-0025, we use the cancelled funds to repay or reduce the amount of your overpayment.

(3) If your AU currently gets food assistance, you can repay your overpayment by monthly installments that you agree on with the department. The agreement must be more than we would recover through us reducing your benefits. Your AU or the department can request a change to the agreement if necessary.

(4) If you are responsible for repaying an administrative or inadvertent household error overpayment, we automatically reduce your monthly benefits if you do not:

(a) Pay the overpayment all at once;

(b) Set up a repayment agreement with us; or

(c) Request a fair hearing and continued benefits within ninety days of the date you received your collection action notice.

(5) If you are responsible for an intentional program violation (IPV) overpayment, you must tell us how you want to repay this overpayment within ten days of the date you get your collection action notice. If you do not do this, we will reduce your current monthly benefits.

(6) If you get ongoing food assistance benefits we can reduce your monthly benefits to repay the overpayment. We do not reduce your first food assistance allotment when we approve your application for food assistance benefits.

(a) If you have an administrative or inadvertent household error overpayment, we reduce your benefits by the greater of:

(i) Ten percent of your monthly benefits; or

(ii) Ten dollars per month.

(b) If you have an IPV overpayment, we reduce your benefits by the greater of:

(i) Twenty percent of your monthly benefits; or

(ii) Twenty dollars per month.

(7) If you do not meet the terms of a repayment agreement with the department, we automatically reduce your current food assistance benefits unless you:

(a) Catch up with all overdue payments; or

(b) Ask us to consider a change to the repayment schedule.

(8) If you no longer get food assistance, we will refer your overpayment for federal collection if the claim is past

due for one hundred eighty or more days. A federal collection includes reducing your income tax refund or social security benefits. We do not count your overpayment as past due if you:

- (a) Repay the entire overpayment by the due date; or
- (b) Meet the requirements of your scheduled repayment agreement.

(9) If you no longer get food assistance benefits, we can garnish your wages, file a lien against your personal or real property, or otherwise access your property to collect the overpayment amount.

(10) We suspend collection on an overpayment if:

- (a) We cannot find the responsible AU members; or
- (b) The cost of collecting the overpayment would likely be more than the amount we would recover.

(11) We can negotiate the amount of an overpayment if the amount you offer is close to what we could expect to get from you before we can no longer legally collect the overpayment from you.

(12) We write off unpaid overpayments and release any related liens when:

- (a) We can not possibly collect any more funds;
- (b) We agreed to accept a partial payment that left an unpaid balance after this payment; or
- (c) There is an unpaid balance left after an overpayment case has been suspended for three consecutive years.

(13) If your AU has an overpayment from another state, we can collect this overpayment if the state where you were overpaid does not plan to collect it and they give us the following:

- (a) A copy of the overpayment calculation and overpayment notice made for the client; and
- (b) Proof that you received the overpayment notice.

WSR 02-03-106

PROPOSED RULES

BELLEVUE COMMUNITY COLLEGE

[Filed January 22, 2002, 8:38 a.m.]

Original Notice.

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

Title of Rule: Student code of Community College District VIII.

Purpose: The purpose of this filing is to amend the following WAC sections to correct typographical errors in the rule.

Other Identifying Information: WAC 132H-120-030, 132H-120-050, 132H-120-200, 132H-120-220, 132H-120-350, 132H-120-410, 132H-120-420, 132H-120-440, and 132H-120-450.

Statutory Authority for Adoption: RCW 28B.50.140.

Summary: This rule is already established and governs the behaviors and consequences for those behaviors of students at Bellevue Community College.

Reasons Supporting Proposal: The rule contains bracketed material that is confusing to the reader and makes the

section unclear. The amendments delete the incorrect references and replace them with the corrected material.

Name of Agency Personnel Responsible for Drafting: Elise Erickson, A201, (425) 564-2302; Implementation and Enforcement: Tomas Ybarra, B231, (425) 564-2454.

Name of Proponent: Bellevue Community College, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule identifies what the students rights and responsibilities are. It defines consequences for actions and provides a mechanism for appeal.

Proposal Changes the Following Existing Rules: The proposal corrects typographical errors and unclear references.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule has no impact on small business.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Bellevue Community College, 3000 Landerholm Circle S.E., Room A201, Bellevue, WA 98007-6484, on February 26, 2002, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Susan Gjolmesli by February 20, 2002, TDD (425) 564-4110, or (425) 564-2498.

Submit Written Comments to: Elise Erickson, Bellevue Community College, Room A201, 3000 Landerholm Circle S.E., Bellevue, WA 98007-6484, fax (425) 564-2261, by February 25, 2002.

Date of Intended Adoption: April 24, 2002.

January 11, 2002

Elise J. Erickson

Rules Coordinator

AMENDATORY SECTION (Amending WSR 92-19-047, filed 9/10/92)

WAC 132H-120-030 Definitions. As used in this Student Code of Community College District VIII the following words and phrases shall mean: (1) "Assembly" means any overt activity engaged in by two or more persons, the object of which is to gain publicity, advocate a view, petition for a cause or disseminate information to any person, persons or groups of persons.

(2) "Board" means the board of trustees of Community College District ~~{No.}~~ No. VIII, state of Washington.

(3) "College" means Bellevue Community College located within Community College District [No.] No. VIII, state of Washington.

(4) "College facilities" means and includes any and all real and personal property owned or operated by the college and shall include all buildings and appurtenances affixed thereon or attached thereto.

(5) "College personnel" refers to any person employed on a full-time or part-time basis, except those who are faculty members, by Bellevue Community College.

(6) "Complaint" means any expression of dissatisfaction with the performance of a college employee or procedure.

(7) "Disciplinary action" means and includes expulsion, suspension or any lesser sanction of any student by the ~~dean of student services,~~ dean of student services, the college discipline committee, the president or the board of trustees for the violation of any of the provisions of the Student Code for which sanctions may be imposed.

(8) "District" means Community College District VIII, state of Washington.

(9) "Faculty member" means any employee of Bellevue Community College who is employed on a full-time or part-time basis as a teacher, counselor, librarian, or in another position for which the training, experience, and responsibilities are comparable as determined by the appointing authority, including administrative appointment.

(10) "President" means the duly appointed chief executive officer of Bellevue Community College, state of Washington, or in his/her absence, the acting chief executive officer.

(11) "Recognized student organization" shall mean and include any group or organization composed of students which is formally recognized by the associated students of Bellevue Community College.

(12) "Sponsored event or activity" shall mean any activity that is scheduled by the college and supervised and controlled by the college's faculty members, librarians, counselors, or other college personnel. Such "sponsorship" shall continue only as long as the event is supervised and controlled by the college faculty member, librarian, counselor, or other college personnel. When the sponsored event or activity is of prolonged nature, and free time periods are permitted to the students participating in the event, any activity taking place during such a free time period outside of the supervision and control of the activity shall be deemed to a non-sponsored activity.

(13) "Student," unless otherwise qualified, means any person who is enrolled for classes or has been accepted for admission to the college.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 93-12-008, filed 5/19/93)

WAC 132H-120-050 Student rights and freedoms. The following enumerated rights and freedoms are guaranteed to each student within ~~the~~ the limitations ~~of statutory law and college policies that~~ of statutory law and college policies that are deemed necessary to achieve the educational goals of the college:

(1) Academic freedom.

a. Students are guaranteed rights of free inquiry, expression, and peaceful assembly upon and within college facilities that are generally open and available to the public. Students and other members of the college community shall always be free to express their views or support causes by

orderly means which do not disrupt the regular and essential operation of the college.

b. Students ~~shall~~ shall have the right of assembly as defined in WAC 132H-120-030 upon college facilities that are generally available to the public: Provided, That such assembly shall:

i. Be conducted in an orderly manner; and

ii. Not unreasonably interfere with vehicular or pedestrian traffic; or

iii. Not unreasonably interfere with classes, schedules, meetings, or ceremonies, or with the educational functions of the college;

iv. Not unreasonably interfere with college functions; and

v. Not cause damage or destruction to college property or private property on the college campus.

c. Students are free to pursue appropriate educational objectives from among the college's curricula, programs, and services, subject to the limitations of RCW ~~26B.50.090 (3)(b)~~ ~~(28B.50.090 (3)(b))~~; 28B.50.090 (3)(b).

d. Students shall be protected from academic evaluation which is arbitrary, prejudiced, or capricious, but are responsible for meeting the standards of academic performance established by each of their instructors.

e. Students have the right to a learning environment which is free from unlawful discrimination, inappropriate and disrespectful conduct, and sexual harassment.

2. Due process.

a. The right of students to be secure in their persons, quarters, papers, and effects against unreasonable searches and seizures is guaranteed.

b. No disciplinary sanction may be imposed on any student without notice to the accused of the nature of the charges.

c. A student accused of violating this Student Code is entitled, upon request, to procedural due process as set forth in this chapter.

3. Distribution and Posting. Students may distribute or post printed or published material subject to official procedures printed and available in the dean of student service's office. All free publications not in violation of state and/or federal laws such as books, magazines, newspapers, handbills, leaflets, or similar materials may be distributed on campus. The college may restrict the distribution of any publications where such distribution unreasonably interferes with college operations. Such materials may be distributed from authorized public areas in the student center and at any outdoor area on campus consistent with the maintenance of college property, with the free flow of traffic and persons, and not in a manner which in itself limits the orderly operation of college affairs. Any person desiring to distribute such publications shall first register with the Director of Student Programs so that reasonable areas and times can be assured and the activities of the institution will not be unduly interfered with. All handbills, leaflets, newspapers, and similarly related matter must bear identification as to the publishing agency and distributing organization or individual.

(4) Off campus speakers. Recognized student organizations shall have the right to invite outside speakers to speak on campus subject to the availability of campus facilities,

funding, and compliance with the college procedures available in the ~~administrative office~~ campus operations office.

(5) Incidental sales. Students have the right to engage incidental sales of personal property in private transactions provided college facilities are not explicitly used for this purpose.

(6) Commercial activities. The use of college grounds or facilities for commercial or private gain purposes is prohibited except where commercial activity such as sale of books, instructional supplies, or food contribute to the operation of the instructional program or where limited sale is specifically authorized by the dean of student services for the benefit of the approved activity.

(7) Fund raising. Students have the right to engage in fund-raising activities for nonprofit organizations as recognized by the Internal Revenue Service. All fund-raising activities must be approved by the dean of student services.

(8) Sale of merchandise. All merchandise offered for commercial sale may be sold only through the college bookstore or college food services except when approved by the dean of student services.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 93-12-08 [93-12-008], filed 5/19/93)

WAC 132H-120-200 Student responsibilities. Any student shall be subject to disciplinary action as provided for in this chapter, who either as a ~~{principal} {principle} principal} actor or aide or abettor;~~ actor~~[-]~~, aider, abettor or accomplice as defined in RCW 9A.08.020:

(1) Materially and substantially interferes with the personal rights or privileges of others or the ~~{educational} {education} educational} process of the college:~~

(2) Violates any provisions of this chapter; or

(3) Commits any of the following acts which are hereby prohibited:

(a) Alcoholic beverages. Being demonstrably under the influence of any form of alcoholic beverage. Possessing or consuming any form of liquor or alcoholic beverage except as a participant of legal age in a student program, banquet, or educational program which has the special written authorization of the college president or his/her designee.

(b) Controlled substances. Using, possessing, selling, or being under the influence of any narcotic drug or controlled substance as defined in RCW 69.50.101 as now law or hereafter amended, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist. For the purpose of this regulation~~[-]~~ "sale" shall include the statutory meaning defined in ~~{RCW 69.50.410} {RCW 69.04.005} RCW 69.04.005~~ as now law or hereafter amended.

(c) ~~{Illegal entry} Illegal entry.~~ Entering any locked or otherwise closed college facility in any manner, at any time,

without permission of the college employee or agent in charge thereof.

(d) Forgery or alteration of records. Forgery, as defined in RCW 9A.60.010 - 9A.60.020 as now law or hereafter amended or any district record of instrument or tendering any forged record of instrument to any employee or agent of the district acting in his/her official capacity as such.

(e) Illegal assembly. Participation in an assembly which materially and substantially interferes with vehicular or pedestrian traffic, classes, hearings, meetings, the educational and administrative functions of the college, or the private rights and privileges of others.

(f) Malicious mischief. Intentional or negligent damage to or destruction of any college facility or other public or private real or personal property.

(g) Failure to follow instructions. Failure to comply with directions of properly identified college officials acting in performance of their duties.

(h) Physical abuse. Physical abuse of any person or conduct which is intended unlawfully to threaten imminent bodily harm or to endanger the health or safety of any person on college-owned or -controlled property or at college-sponsored or -supervised functions.

(i) Assault. Assault, reckless endangerment, intimidation, or interference upon another person in the manner set forth in RCW 9A.36.011-050 or 28B.10.570-572 as now or hereafter amended.

(j) Disorderly, abusive, or bothersome conduct. Disorderly or abusive behavior that interferes with the rights of others or which obstructs or disrupts teaching, research, or administrative functions.

(k) Weapons. Possession or use of firearms, explosives, dangerous chemicals, or other dangerous weapons or instrumentalities on the college campus, except for authorized college purposes or for law enforcement officers, unless written approval has been obtained from the Dean of Student Services or any other person designated by the President.

(l) Lewd conduct. Engaging in lewd, indecent, or obscene behavior on college-owned or -controlled property or at college-sponsored or -supervised functions.

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

(n) Cheating and plagiarism. Engaging in cheating, stealing, plagiarizing, knowingly furnishing false information to the college, or submitting to a faculty member any work product that the student fraudulently represents as his or her own work for the purpose of fulfilling or partially fulfilling any assignment or task required as part of a program of instruction.

(o) Sexual harassment. Engaging in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where such behavior knowingly offends the recipient, causes discomfort or humiliation, or interferes with job or school performance.

(p) Theft or robbery. Theft or robbery from the district or from another as defined in RCW 9A.56.010-9A.56.050 and 9A.56.100 as now law or hereafter amended.

(q) Unauthorized use of property. Converting college equipment, supplies, or other property without proper authority.

(r) Refusal to provide identification. Refusal to provide positive identification (e.g., valid driver's license or state identification card) in appropriate circumstances to any college employee in the lawful discharge of said employee's duties.

(s) Smoking. Smoking in any classroom or laboratory, the library, or in any college facility or office posted "no smoking" or any other smoking not complying with RCW 70.160.

(t) False complaint. Filing a formal complaint falsely accusing another student or college employee with violating a provision of this chapter.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 93-12-008, filed 5/19/93)

WAC 132H-120-220 Responsibility of college discipline committee. The dean of student ~~{programs and personnel}~~ services is the college administrator responsible for student discipline. All discipline procedures will be initiated by the dean, who shall have the authority to administer the disciplinary action prescribed in this chapter and to convene the college discipline committee. The composition of the college discipline committee shall be as follows: The committee shall be established each fall. It will be composed of the following persons:

1. A faculty member appointed by the president of the college.
2. A member of the faculty, appointed by the president of ~~{the}~~ the Bellevue Community College Association of Higher Education.
3. Two representatives ~~{selected}~~ selected by the student services cabinet.
4. Three students appointed by the president of the associated students of Bellevue Community College.

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

The college discipline committee chair will be elected by the members of the college discipline committee.

There shall be a list of alternates provided in the same manner and number in which membership was obtained.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 93-12-008, filed 5/19/93)

WAC 132H-120-300 Discipline committee procedure. (1) The discipline committee shall conduct a hearing within twenty (20) calendar days after disciplinary action has been referred to the committee.

(2) When a person is charged with an offense punishable by suspension, or dismissal of his or her relationship with the institution, and where the person

(a) Waives the opportunity for a brief adjudicative proceeding, or

(b) By his/her conduct in the judgment of the hearing officer makes it impossible to conduct a brief adjudicative proceeding, or

(c) Is dissatisfied with the results of the brief adjudicative proceeding; that person is entitled to an adjudicative proceeding according to the provisions of RCW 34.05.410 and the guidelines of this chapter. Where an adjudicative proceeding is neither required by law nor requested by the student or the college, the matter may be resolved informally. Brief adjudicative proceedings before the discipline committee shall be conducted in any manner which will bring about a prompt, fair resolution of the matter.

(3) Written notice of the time and place of his hearing before the college discipline committee, shall be given to the student by personal service or certified mail not less than twenty calendar days in advance of the hearing. The notice shall be issued by the dean of student services and shall contain:

(a) A statement of the time, place and nature of the disciplinary proceedings;

(b) A statement of the charges including reference to the particular sections of the student code involved; and

(c) To the extent known, a list of witnesses who will appear and a summary description of any documentary or other physical evidence that will be presented by the college at the hearing.

(4) The student shall be entitled to:

(a) hear and examine the evidence against him or her and be informed of the identity of its source; ~~{he shall be entitled to}~~

(b) Present evidence in his or her own behalf and to cross-examine witnesses testifying on behalf of the college as to factual matters.

(c) Take depositions upon oral examination or written interrogatories. Discovery shall be done according to the rules of civil procedure or by a less formal method where all parties agree.

(5) The student shall have all authority possessed by the college to obtain information he/she specifically describes, in writing, and tenders to the dean ~~{of}~~ of student services no later than three days prior to the hearings, or request the presence of witnesses or the production of other evidence relevant to the issues of the hearings.

(6) The student shall have the right to dismiss a member of the college discipline committee on prejudicial grounds if notice is tendered in writing to the dean ~~{of}~~ of student services at least three days prior to the scheduled hearing.

(7) The student may be represented by counsel of his or her choice at the disciplinary hearing. If the student elects to choose a duly licensed attorney as his or her counsel, he or she must tender at least seven calendar days notice thereof to the dean of student services ~~{development}~~.

(8) In all disciplinary proceedings the college may be represented by the dean ~~{of}~~ of student services or his or her designee who shall present the ~~{college's}~~ college's case to the college discipline committee. ~~{The}~~ The dean ~~{of}~~ of student services may elect to have the college represented by an assistant attorney general.

~~{(9)}~~ (9) An adequate record of ~~{the}~~ hearing shall be maintained and shall include:

- (a) All documents, motions, and intermediate rulings;
- (b) Evidence received and considered;
- (c) A statement of matters noticed; and
- (d) Questions and offers of proof, objections and rulings thereon.

(10) The chair of the college discipline committee shall preside at the disciplinary hearing and shall be considered the presiding officer.

(11) The dean of student services shall designate a recorder to take notes during the hearing and to prepare a written summary of all evidence, facts and testimony presented to the college discipline committee during the course of the hearing.

~~{(12)}~~ (12) Hearings conducted by the college discipline committee generally will be held in closed session, provided that the accused student may request the hearing to be held in open session.

(13) If at any time during the conduct of a hearing visitors disrupt the proceedings, the chair of the committee may exclude such persons from the hearing room.

(14) Any student attending the college discipline committee hearing who continues to disrupt the proceedings after the chair of the committee has asked him or her to cease or to leave the hearing room shall be subject to disciplinary action.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 92-19-047, filed 9/10/92)

WAC 132H-120-350 Readmission after expulsion. Any student expelled from the college may be readmitted only on written petition to the office which initiated the action resulting in his expulsion. Such petitions must indicate how specified conditions have been met and if the term of the expulsion has not expired, any reasons which support a reconsideration of the matter. Because the president of the college participates in all disciplinary actions expelling students from the college, decisions on such petitions for read-

mission must be reviewed and approved ~~{by}~~ by the president before readmission is granted. The president shall render a decision in writing to the student.

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 92-19-047, filed 9/10/92)

WAC 132H-120-410 Permission to enter or remain on campus. During the summary suspension period, the suspended student shall not enter any campus of District No. VIII other than to meet with the dean ~~{of}~~ of student services or to attend the hearing. However, the dean ~~{of}~~ of student services or the college president may grant the student special permission to enter a campus for the express purpose of meeting with faculty, staff, or students in preparation for a probable cause hearing.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 92-19-047, filed 9/10/92)

WAC 132H-120-420 Notice of summary suspension proceedings. (1) When the president or his/her designee exercises the authority to summarily suspend a student, he/she shall cause notice thereof to be served upon that student by registered or certified mail at the student's last known address, or by causing personal service of such notice upon that student.

(2) The notice shall be entitled "notice of summary suspension proceedings" and shall state:

(a) The charges against the student including reference to the provisions of the student code of Bellevue Community College District VIII or the law involved; and

(b) That the student charged must appear before the dean ~~{of}~~ of student services at a time specified in the notice for a hearing as to whether probable cause exists to continue the summary suspension~~{-}~~. The hearing shall be held as soon as practicable after the summary suspension.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 92-19-047, filed 9/10/92)

WAC 132H-120-440 Decision by the dean ~~{of}~~ of student services. If the dean ~~{of}~~ of student services, following the conclusion of the summary suspension proceedings, finds that there is probable cause to believe that:

(1) The student against whom specific violations of law or of provisions of this chapter are alleged has committed one or more of such violations upon any college facility; and

(2) That summary suspension of said student is necessary for the protection of the student, other students or persons on college facilities, college property, the educational process, or to restore order to the campus, and

(3) Such violation or violations of the law or of provisions of this chapter constitute grounds for disciplinary action, then the dean ~~of~~ of student services may, with the written approval of the president, continue to suspend such student from the college and may impose any other disciplinary action appropriate.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 92-19-047, filed 9/10/92)

WAC 132H-120-450 Notice of suspension. (1) A student who is suspended or otherwise disciplined pursuant to the above rules shall be provided with a written copy of the dean of student service's findings of fact and conclusions, as expressly concurred in by the president, which constituted probable cause to believe that the conditions for summary suspension existed.

(2) The student suspended pursuant to the authority of this rule shall be served a copy of the notice of suspension by personal service or by registered mail to said student's last known address within three working days following the conclusion of the summary suspension hearing.

~~{(3)}~~ (3) The notice of suspension shall state the duration of the suspension or nature of other disciplinary action and the conditions under which the suspension may be terminated.

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.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Tika Esler, B125, (425) 564-2206.

Name of Proponent: Bellevue Community College, public.

Rule is necessary because of federal law, 20 U.S.C. § 1232g; 34 C.F.R. § 99.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule will help students know their rights for access to their student records under the federal law and explain how Bellevue Community College will protect their student information. It will also tell them how they may appeal for corrections to their record and identify what kinds of general directory information the college has the right to publish.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule has no impact on small business.

RCW 34.05.328 does not apply to this rule adoption. The proposed rule incorporates by reference without material change federal statutes.

Hearing Location: Bellevue Community College, 3000 Landerholm Circle, S.E., Room B125, Bellevue, WA 98007-6484, on February 26, 2002, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Susan Gjolmesli by February 20, 2002, TDD (425) 564-4110, or (425) 564-2498.

Submit Written Comments to: Elise Erickson, Bellevue Community College, Room A201, 3000 Landerholm Circle S.E., Bellevue, WA 98007-6484, fax (425) 564-2261, by February 25, 2002.

Date of Intended Adoption: April 24, 2002.

January 11, 2002
Elise J. Erickson
Rules Coordinator

WSR 02-03-107

PROPOSED RULES

BELLEVUE COMMUNITY COLLEGE

[Filed January 22, 2002, 8:40 a.m.]

Original Notice.

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

Title of Rule: Family Education Rights and Privacy Act.

Purpose: This rule establishes that student records are confidential and can be released only with written permission of the student except for information that is considered to be directory information.

Statutory Authority for Adoption: RCW 28B.50.140.

Summary: The rule identifies primary rights of students concerning their education records; defines who may have access to them; identifies where records can be requested; establishes for what purposes records may be requested and by whom; designates what information is considered directory information; and tells students how they may request a correction to their educational records.

Reasons Supporting Proposal: The Family Education Rights and Privacy Act was established by federal law 93-380. This chapter provides information for students about their rights under the law at Bellevue Community College.

NEW CHAPTER

[NEW SECTION]

WAC 132H-410-010 Family Education Rights and Privacy Act—General policy. Bellevue Community College implements policy contained in this chapter in compliance with Public Law 93-380, the Family Educational Rights and Privacy Act of 1974 ("FERPA"). This law establishes that the education records of students attending or having attended the college are confidential and can be released only with written permission of the student. The Family Educational Rights and Privacy Act also authorizes the college to release so-called "directory information" without that prior written permission.

The college has adopted procedures to implement the Family Educational Rights and Privacy Act. Questions pertaining to the procedures and their implementation should be directed to the Associate Dean of Enrollment Services.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

PROPOSED

[NEW SECTION]

WAC 132H-410-020 Definitions. For the purposes of this policy, the following definitions apply:

1. Student—any person who attends or has attended Bellevue Community College.

2. Education Records—any record (in handwriting, print, tapes, film, computer, e-mail, or other medium) maintained by Bellevue Community College or an agent of the college which is directly related to a student, except:

a. A personal record kept by a staff member if it is kept in the sole possession of the maker of the record and is not accessible or revealed to any other person except a temporary substitute for the maker of the record.

b. Records created and maintained by Campus Security for law enforcement purposes.

c. An employment record of an individual whose employment is not contingent on the fact that he or she is a student (work-study employment is NOT an exception), provided that the record is used only in relation to the individual's employment.

d. Records made or maintained by the Student Health Center or the Human Development Center, if the records are used only for treatment of a student and are made available only to those persons providing the treatment

e. Alumni records which only contain information about a student after he or she is no longer in attendance at the college and which information does not relate to the person as a student.

3. Directory Information. "Directory Information" is that information routinely released without the student's permission. This includes: name of student, student's email address, degree or certificate awarded, dates of attendance, athletic statistics, scholarships received, membership or office in BCC student government or honor society, part-time or full-time student status, and previous schools attended.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

[NEW SECTION]

WAC 132H-410-030 Annual notification of rights. Bellevue Community College will provide students annual notification of their rights as defined by FERPA by publication in the student handbook and college catalog and by posting information in the student services building.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

[NEW SECTION]

WAC 132H-410-040 Primary rights of students. The primary rights of students under FERPA are:

1. To inspect and review their education records;
2. To request amendment of their education records;
3. To have some control over the disclosure of information from their education records.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

[NEW SECTION]

WAC 132H-410-050 Inspection of education records. Students may inspect and review their education records upon written request to the Associate Dean of Enrollment Services identifying the record(s) the student wishes to inspect.

The Associate Dean of Enrollment Services will make the needed arrangements for access within 45 days from the receipt of the student's written request. If the requested records are not maintained by the office of the Associate Dean, then the Associate Dean shall forward the request to the appropriate college official. If the requested records contain information about more than one student, the student may inspect and review only the records or portions of records which relate to him or her.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

[NEW SECTION]

WAC 132H-410-060 Limitation on right of access. Bellevue Community College reserves the right to refuse to permit a student to inspect the following records:

1. the financial statement of the student's parents;
2. letters and statements of recommendation for which the student has waived his or her right of access, or which were maintained before January 1, 1975;
3. records connected with an application to attend Bellevue Community College or a component unit of BCC if that application was denied;
4. those records which are excluded from the FERPA definition of education records.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

[NEW SECTION]

WAC 132H-410-070 Refusal to provide copies. Bellevue Community College reserves the right to deny copies of records, including transcripts, not required to be made available by FERPA in any of the following situations:

1. The student has an unpaid financial obligation to the college.
2. There is an unresolved disciplinary action against the student.
3. The education record requested is an exam or set of standardized test questions.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

[NEW SECTION]

WAC 132H-410-080 Types, locations, and custodians of education records. The following is a list of the types, locations, and custodians of education records the college maintains. The length of time the records are kept is indicated in parentheses. Requests for specific education records should be sent to the custodian and location indicated, at Bellevue Community College, 3000 Landerholm Circle SE, Bellevue, WA, 98007.

Type (retention period)	Location	Custodian
Admissions records (1 year after last date of attendance)	Admissions Office	Associate Dean of Enrollment Services
Cumulative academic transcript (75 years after last date of attendance)	Records Office	Associate Dean of Enrollment Services
Disciplinary records (5 years after resolution of disciplinary action)	Student Services Office	Dean of Student Services
Financial aid records (5 years after last date of attendance)	Financial Aid Office	Director of Financial Aid & Student Employment
Financial records (3 years after last date of attendance)	Finance Office	Director of Finance
Student employment records (1 year after last date of attendance)	Student Employment Office	Director of Financial Aid & Student Employment

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

[NEW SECTION]

WAC 132H-410-090 Disclosure of education records.

The college will disclose information from a student's education records only with the written consent of the student except that records may be disclosed without consent when the disclosure is:

1. To school officials who have a legitimate educational interest in the records.

a. A school official is:

i. A person employed by the college in an administrative, supervisory, academic or research, or support staff position, including health center staff.

ii. A person appointed to the Board of Trustees.

iii. A person employed by or under contract to the college to perform a special task, such as an attorney or auditor.

iv. A person who is employed by Campus Security.

v. A student serving on an official committee, such as a disciplinary or grievance committee, or who is assisting another school official in performing his or her tasks.

b. A school official has a legitimate educational interest if the official is:

i. Performing a task that is specified in his or her position description or contract agreement.

ii. Performing a task related to a student's education.

iii. Performing a task related to the discipline of a student.

iv. Providing a service or benefit relating to the student or student's family, such as health education, counseling, advising, student employment, financial aid, or other student service related assistance.

v. Maintaining the safety and security of the campus.

2. To school officials of another school, upon request by that school, in which a student seeks or intends to enroll.

3. To certain officials of the U.S. Department of Education, the Comptroller General, and to state and local educational authorities, in connection with audit or evaluation of certain state- or federally-supported education programs.

4. In connection with a student's request for or receipt of financial aid to determine the eligibility, amount, or condi-

tions of the financial aid, or to enforce the terms and conditions of the aid.

5. To state and local officials or authorities if specifically required by a state law that was adopted before November 19, 1974.

6. To organizations conducting certain studies for or on behalf of the college.

7. To accrediting organizations to carry out their functions.

8. To parents of an eligible student who is claimed as a dependent for income tax purposes.

9. To comply with a judicial order or a lawfully-issued subpoena.

10. To appropriate parties in a health or safety emergency.

11. To individuals requesting directory information so designated by the college.

12. The results of any disciplinary proceeding conducted by the college against an alleged perpetrator of a crime of violence to the alleged victim of that crime.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

[NEW SECTION]

WAC 132H-410-100 Directory information. Bellevue Community College designates the following items as directory information, which may be disclosed without the student's prior written consent, unless the student notifies the college to the contrary in writing by September 15 of the academic year:

1. Name of student

2. Student's email address

3. Degree or certificate awarded

4. Dates of attendance

5. Athletic statistics

6. Scholarships received

7. Membership or office in BCC Student Government or honor society

8. Pt time or full time student status

9. Previous schools attended

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

[NEW SECTION]

WAC 132H-410-110 Correction of education records. Students have the right to ask that records be corrected if they believe those records are inaccurate, misleading, or in violation of their privacy rights. The following procedures are in place for correcting education records.

1. The student must formally ask the Associate Dean of Enrollment Services to amend a record. The request should identify the specific record, the part or the record to be amended, and the reason why the student believes it is inaccurate, misleading, or in violation of his or her privacy rights.

2. BCC decides whether or not to comply with the student's request.

a. If the college decides that the information is indeed inaccurate, misleading, or in violation of the student's privacy

rights, it will amend the record and notify the student in writing that it has done so.

b. If the college decides to deny the request, the college will notify the student of that decision and advise the student of his or her further rights:

i. The student has the right to place in the record a statement commenting on the challenged information and/or a statement of the student's reasons for disagreeing with the college's decision. This statement will be maintained as part of the student's education record as long as the contested portion is maintained. If BCC discloses the contested portion of the record, it must also disclose the student's statement.

ii. The student has the right to request a hearing to challenge the information which the student believed to be inaccurate, misleading, or in violation of privacy rights.

3. If the student so requests, the college will arrange a hearing and notify the student reasonably in advance of the date, place, and time of the hearing.

4. The hearing will be conducted by a hearing officer who is a disinterested party. This hearing officer may be a college official. The student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend an education record. The student may be assisted at the hearing by one or more individuals, including an attorney.

5. The hearing officer will prepare a written decision based solely on the evidence presented at the hearing. The decision will include a summary of the evidence presented and the reasons for the decision.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

WSR 02-03-108
PROPOSED RULES
LOTTERY COMMISSION
[Filed January 22, 2002, 10:01 a.m.]

Continuance of WSR 01-22-021.

Preproposal statement of inquiry was filed as WSR 01-18-023.

Title of Rule: WAC 315-20-010 Removal of lottery terminal when license is suspended or revoked.

Purpose: Clarify lottery rules regarding removal of lottery terminal.

Statutory Authority for Adoption: RCW 67.70.040.

Statute Being Implemented: RCW 67.70.040.

Summary: Lottery policy requires removal of a terminal when a license is suspended or revoked. This amendment to WAC 315-20-010 will clarify this policy in the lottery's rules.

Name of Agency Personnel Responsible for Drafting: Mary Jane Ferguson, Olympia, (360) 664-4833; Implementation and Enforcement: Robert C. Benson, Jr., Acting Director, Olympia, (360) 664-4800.

Name of Proponent: Lottery Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Lottery policy requires removal of a terminal when a license is suspended or revoked. This amendment to WAC 315-20-010 will clarify this policy in the lottery's rules. This policy of removal safeguards the integrity of the lottery and prevents financial loss due to the operation of the terminal by a retailer whose license has been suspended or revoked.

Proposal Changes the Following Existing Rules: Before this amendment, WAC 315-20-010 did not address the lottery's policy regarding removal of a retailer's terminal at the time a retailer's license is revoked or suspended.

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

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

Hearing Location: Department of Labor and Industries Building, 7273 Linderson Way S.W., Tumwater, WA, on March 15, 2002, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Mary Jane Ferguson by March 11, 2002, TDD (360) 586-0933, or (360) 664-4833.

Submit Written Comments to: Mary Jane Ferguson, Lottery, fax (360) 586-6586, by March 11, 2002.

Date of Intended Adoption: March 15, 2002.

January 18, 2002

Mary Jane Ferguson

Rules Coordinator

AMENDATORY SECTION (Amending Order 83, filed 12/16/85)

WAC 315-20-010 Director may temporarily suspend license and remove terminal pending a hearing. (1) After review and consideration, the director may temporarily suspend a license or addendum thereto issued pursuant to these rules pending a hearing upon suspension or revocation of the license, or issuance of a renewal thereof, when in the opinion of the director:

(a) The lottery retailer has obtained the license or addendum by fraud, trick, misrepresentation, concealment, or through inadvertence or mistake; or

(b) The lottery retailer has engaged in any act, practice or course of operation as would operate as a fraud or deceit on

any person, or has employed any device, scheme or artifice to defraud any person; or

(c) The lottery retailer has violated, failed, or refused to comply with any of the provisions, requirements, limitations, or duties imposed by chapter 67.70 RCW and any amendments thereto or any rules adopted by the commission pursuant thereto; or

(d) Immediate cessation of the licensed activities by the lottery retailer is necessary for the protection or preservation of the welfare of the community within which these activities are being conducted.

(2) After review and consideration, if the director determines that a retailer's license shall be revoked or suspended, the lottery shall immediately remove all lottery terminals and material from the retailer's store(s), in order to prevent any financial loss or harm to the integrity of the lottery. The retailer shall have the right to appeal the decision of the director, and, if the retailer prevails in a final court action which is not appealed, the lottery shall bear the cost of reinstallation of the lottery terminal(s).

(3) Notice of such temporary suspension((s)) and/or terminal removal shall be served in accordance with WAC 10-08-110.

WSR 02-03-109

PROPOSED RULES

LOTTERY COMMISSION

[Filed January 22, 2002, 10:01 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-21-079.

Title of Rule: Chapter 315-37 WAC, new rules for a new game called *Lotto Plus*.

Purpose: To establish the rules of a new game, *Lotto Plus*.

Statutory Authority for Adoption: RCW 67.70.040.

Statute Being Implemented: RCW 67.70.040.

Summary: Chapter 315-37 WAC will establish the rules for the new game, *Lotto Plus*.

Name of Agency Personnel Responsible for Drafting: Mary Jane Ferguson, Olympia, (360) 664-4833; Implementation and Enforcement: Robert C. Benson Jr., Acting Director, Olympia, (360) 664-4800.

Name of Proponent: Lottery Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Under the rules of the new game, *Lotto Plus*, players will select five numbers out of a field of 1 through 43 and one number out of a field of 1 through 23, in order to try to match the number selected by the lottery to win a prize. The purpose of the new game is to stimulate interest in the *Lotto* game and maintain revenues for the state.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The lottery has consid-

ered whether these rules are subject to the Regulatory Fairness Act, chapter 19.85 RCW, and has determined that they are not for the following reasons: (1) The rules have no economic impact on business' cost of equipment, supplies, labor or administrative costs. The rules are designed to establish rules and procedures for administrative actions in the case of the revocation or suspending of a retailer's license; and (2) the rules will have a negligible impact, if any, on the normal operation of business because they are interpretive. They have been promulgated for the purpose of stating policy, procedure and practice and do not include requirements for forms, fees, appearances or other actions by business.

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

Hearing Location: Department of Labor and Industries Building, 7273 Linderson Way S.W., Tumwater, WA, on March 15, 2002, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Mary Jane Ferguson by March 11, 2002, TDD (360) 586-0933, or (360) 664-4833.

Submit Written Comments to: Mary Jane Ferguson, Lottery, fax (360) 586-6586, by March 11, 2002.

Date of Intended Adoption: March 15, 2002.

January 18, 2002

Mary Jane Ferguson

Rules Coordinator

Chapter 315-37 WAC

LOTTO PLUS

NEW SECTION

WAC 315-37-010 What is Lotto Plus and how do I play? (1) Lotto Plus is an on-line lottery game in which you purchase a computer-generated ticket and try to match your two sets of numbers (one set of five numbers and one set of one number) to the two sets of numbers chosen by the lottery. The game is conducted in accordance with the rules for on-line games found in chapter 315-30 WAC, the general rules found in chapter 315-06 WAC, and this chapter.

(2) To play Lotto Plus, you pick one set of five numbers from "01" to "43" and one number from "01" to "23" for a chance to win a prize, or you can let the computer pick both sets or either set of numbers for you. If you have the computer pick for you, this is called a "quick pick" or "quick play."

NEW SECTION

WAC 315-37-020 How much does a Lotto Plus ticket cost? The price of each Lotto Plus play is \$.50 and is sold in pairs for \$1.00.

NEW SECTION

WAC 315-37-030 What are the prizes for Lotto Plus and the odds of winning the prizes? (1) The prizes and odds for matching numbers in your set(s) of numbers to the numbers drawn by the lottery are as set forth below. The jackpot amount varies due to roll-over and the parimutuel calculation of prizes.

Numbers Matching Winning Numbers In Set of Five	Number Matching Winning Number In Set of One	Prize Amount	Odds (per \$1 play)
5	1	Jackpot	11,069,877
5	0	\$2,000	503,176
4	1	\$500	58,263
4	0	\$25	2,648
3	1	\$15	1,575
3	0	\$3	72
2	1	\$3	131
1	1	\$2	30
0	1	\$1	22
			Overall Odds: 1:10

(2) The holder of a winning ticket may win only one prize per play and shall be entitled only to the highest prize category won by those numbers.

(3) Roll-over feature for the jackpot prize is as follows:

(a) If no player selects winning numbers entitling him or her to the jackpot prize, the jackpot accumulated for that drawing will be added to the jackpot accumulation for the next drawing. This process is repeated until the jackpot is won.

(b) The director shall have the discretion to increase the jackpot prize, in addition to the roll-over specified in (a) of this subsection.

(4) All prize payments are subject to federal income tax withholding requirements and debt checks, pursuant to RCW 67.70.255.

NEW SECTION

WAC 315-37-040 When will Lotto Plus start? Lotto Plus will start on a date designated at the discretion of the director. The start date will be advertised. Lotto Plus will replace Lotto 6 of 49 as described in chapter 315-34 WAC. However, the director may choose at any time to have one or the other of the lotto games (Lotto 6 of 49 as set forth in chapter 315-34 WAC and/or Lotto Plus as set forth in this chapter) run alone or both at the same time.

NEW SECTION

WAC 315-37-050 How are the winning sets of numbers selected? Lottery officials conduct the drawing for the winning sets of numbers, as specified in the general rules for on-line game drawings, WAC 315-30-040. The director has the discretion to specify the means for randomly drawing the winning numbers. Each drawing shall be independent and shall determine, at random, five numbers from "01" through "43," and one number from "01" to "23" which will be the winning sets of numbers. No two of the five numbers in the winning set of five numbers will be identical. The one number in the set of one number may be identical to a number in the set of five numbers. Any drawn numbers will not be declared winning numbers until the drawing is validated by the lottery. The winning numbers shall be used to determine all Lotto Plus winners for that drawing. If a drawing is not validated, another drawing will be conducted to determine the winning sets of numbers. The drawing shall not be invalidated based on the liability of the lottery.

NEW SECTION

WAC 315-37-060 How often are the winning sets of numbers chosen? The Lotto Plus drawing for the winning sets of numbers is held at least once a week and may be held up to once a day, seven days a week, at the discretion of the director of the lottery. The director, in addition, has the discretion to change the drawing schedule or cancel the drawing if it falls on a holiday.

NEW SECTION

WAC 315-37-070 Where can I buy or redeem Lotto Plus tickets? You can buy or redeem Lotto Plus tickets only from a lottery retailer licensed by the director of the lottery to sell on-line, computer generated tickets. You can buy or redeem the tickets during no less than seventeen hours each day, according to a schedule determined by the director of the lottery, but each on-line retailer will sell and redeem tickets only during normal business hours. In redeeming tickets, a retailer may only pay out prizes up to \$600. For prizes over \$600, you must obtain a lottery claim form as described in WAC 315-06-120, and submit your ticket to the lottery by mail or in person. Tickets will be validated and redeemed in accordance with the general rules for on-line games found in chapter 315-30 WAC.

NEW SECTION

WAC 315-37-080 What information is included on a Lotto Plus ticket and playslip? The front of the ticket includes the selection of numbers, amount wagered, drawing date, and validation and reference numbers. The back of the playslip includes an estimate of the probability of purchasing a winning ticket, player instructions, and player information.

PROPOSED

NEW SECTION

WAC 315-37-090 How are prizes paid? (1) Every Lotto Plus prize other than the jackpot prize will be paid in a single payment.

(2) The jackpot prize will be paid in accordance with WAC 315-30-030(6); 315-06-120 and the following procedure:

(a) **Cash option:** After a player has claimed a jackpot prize or a share of a jackpot prize, and after the claim has been validated (including a debt check pursuant to WAC 315-06-125), the player may elect to be paid a one-time single cash payment of fifty percent of his or her share of the announced jackpot, provided:

(i) The player must elect this cash option within sixty days of the validation of his or her prize, by following the procedure required by the lottery;

(ii) If the federal tax code is interpreted by federal authorities to require that this cash option be exercised within sixty days of the drawing for the prize, then (a)(i) of this subsection will not apply and instead, the player must elect this cash option within sixty days of the date of the drawing for the prize;

(iii) The player's choice of payment method as designated by signing the appropriate lottery form is final and may not be changed by the player at a later date.

(b) **Annuity:** A player who chooses not to elect the cash option or who does not elect the cash option within the sixty-day limit will be paid his or her prize in twenty-five annual installment payments.

NEW SECTION

WAC 315-37-100 What happens to unclaimed Lotto Plus prizes? When a player who holds a winning ticket does not claim his or her prize within one hundred eighty days of the drawing in which the prize was won, that prize is retained in the state lottery fund for further use as prizes, as provided for in RCW 67.70.190.

NEW SECTION

WAC 315-37-110 Definitions for Lotto Plus. (1) **Number:** Any play number from "01" to "43" for the set of five numbers and any play number from "01" to "23" for the set of one number.

(2) **Set:** One selection of five numbers, which constitute a set of five numbers, or one selection of one number, which constitutes a set of one number. Each play shall consist of the player's choice of one set of five numbers and one set of one number.

(3) **Play slip:** A mark-sense game card used by players to select their sets of numbers.

(4) **Lotto Plus ticket:** A computer-generated receipt showing payment for at least two plays in a Lotto Plus game. Tickets shall be issued by an on-line terminal at locations licensed by the lottery and shall list the sets of numbers that belong to the ticket holder.

(5) **Quick pick or quick play:** A method for choosing a set of numbers by the use of the random number generator within the on-line computer terminal.

(6) **Play:** One set of five numbers and one set of one number constitute a play.

NEW SECTION

WAC 315-37-120 Suspension or termination of Lotto Plus. At the discretion of the director, Lotto Plus may be suspended or terminated at any time, to be effective prior to the beginning of sales for any future drawing. The director may suspend or terminate sales only where no sales have been made for the drawing.

WSR 02-03-111
PROPOSED RULES
DEPARTMENT OF
NATURAL RESOURCES
 [Filed January 22, 2002, 1:58 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-10-068.

Title of Rule: Residential use of state-owned aquatic lands.

Purpose: The proposed rules clarify the department's proprietary management responsibilities and objectives regarding residential uses (live-aboard boats and house boats) on state-owned aquatic lands.

Statutory Authority for Adoption: RCW 79.90.080.

Statute Being Implemented: Chapter 79.90 RCW.

Summary: The proposed rules define floating residential uses, live-aboard boats, and house boats clarify the "grandfathering" of house boats and clarify other management issues regarding residential uses, including waste disposal and open water moorage.

Reasons Supporting Proposal: Many management issues regarding residential uses are currently not addressed in either statute or rule. The new rules will provide much needed clarity for both staff and the public about the department's management of residential uses on state-owned aquatic lands.

Name of Agency Personnel Responsible for Drafting: Rich Phipps, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-1091; Implementation and Enforcement: Loren Stern, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-1100.

Name of Proponent: Department of Natural Resources, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rules define residential use of a floating structure; define the difference between live-aboard boats and house boats; define moorage of live-aboard boats as a water-dependent use; clarify the water-oriented "grandfathering" of house boats under RCW 79.90.465(2); set percent

limits on residential uses in marinas and other moorage facilities; clarify requirements for sewage and waste disposal from residential uses; prohibit open water moorage and anchorage of residential uses except in designated areas; allow live-aboard boats in harbor areas; and provide for substantial local government discretion regarding residential uses. The new rules will provide much needed clarity for both staff and the public about the department's management of residential uses on state-owned aquatic lands.

Proposal Changes the Following Existing Rules: Many management issues regarding residential uses currently not addressed in statute or rule will now be addressed; the definition of house boats is updated; live-aboard boats will now be allowed in harbor areas.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

Executive Summary: The Department of Natural Resources prepared a small business economic impact statement (SBEIS) as required by RCW 19.85.030 to analyze the costs of compliance with its proposed new rule on small and large for-profit marina businesses (referred to in the SBEIS as "marina businesses").

Requirements of Proposed Rule:

1. The proposed rule will define live-aboard boats and houseboats.

2. The proposed rule provides clarification of grandfathered and nongrandfathered houseboats.

3. The proposed rule will limit the proportion of residential slips (live-aboard boats and houseboats) to 10% unless otherwise specified by local government.

4. The proposed rule prohibits residential uses in open waters, except in areas under lease to local government.

5. The proposed rule requires verification by marina businesses of upland disposal of waste from residential slips on state-owned aquatic lands.

The primary businesses affected by the rule are marina businesses that lease state-owned aquatic lands for use as residential slips. A total of one hundred seventy-two marina businesses that lease state-owned aquatic lands may be affected. To collect information on the potential cost of the proposed rule, the department sent questionnaires to all marinas that lease state-owned aquatic lands. To follow up, the department conducted telephone interviews with the marina businesses that indicated they had residential use, to gather additional information and to clarify any questions about the information provided on the questionnaire. A telephone sampling of marina businesses that did not return the questionnaire was conducted to determine if they have residential use and if so, if they would be impacted by the 10% limit.

Based on the information collected in the returned questionnaires and follow-up telephone survey, the total estimated cost of the proposed new rule for for-profit marina businesses, when fully implemented, was made up of three parts: The cost of the 10% limit on residential use (\$285,066.81 per year); the cost of the houseboat grandfathering restrictions (\$8,325.00 per year); and the cost of reporting to verify upland disposal of waste (\$11,460.96 per

year). The total estimated cost of the proposed rule is \$304,852.77 per year, or an average of \$1,772.40 per year per affected marina.

Only two of the for-profit marina businesses indicated that they had more than fifty employees. These two businesses indicated that they had live-aboard boats on state-owned aquatic lands, but neither was above the 10% limit.

The department has provided several mitigation efforts in the proposed rule.

1. Live-aboard boats and houseboats that exceed the limit when the rule takes effect will be allowed to stay, as long as they meet all other applicable requirements, but no new residential use will be allowed until the limit is reached by attrition.

2. Slips that otherwise would have been occupied by live-aboard boats and houseboats would be available for non-live-aboard moorage.

3. If a marina (or the portion of it on state-owned aquatic lands) is small enough so that even one residential use would put it over the percent limit, the proposed rule allows for one residential use.

4. Local governments have the ability to set the percent limit on residential uses, from 0% to 100%.

5. If the local government sets a percent limit, the limit would apply to both the state and privately owned aquatic lands as a whole and marina businesses could have more than 10% on the state-owned aquatic lands portion of their marina as long as the total does not exceed the limit set by local government.

6. The cost of verifying upland disposal of waste from residential slips on state-owned aquatic lands is mitigated by explicitly allowing for maximum flexibility in how this can be accomplished.

For a copy of the full text of the SBEIS contact Kristin Swenddal, Policy Unit Supervisor, Aquatic Resources Division, Washington State Department of Natural Resources, 1111 Washington Street S.E., P.O. Box 47027, Olympia, WA 98504-7027, phone (360) 902-1124, fax (360) 902-1786, e-mail kristin.swenddal@wadnr.gov.

A copy of the statement may be obtained by writing to Phil Aust, Department of Natural Resources, 1111 Washington Street S.E., Olympia, WA 98504, phil.aust@wadnr.gov, phone (360) 902-1031, fax (360) 902-1786.

RCW 34.05.328 applies to this rule adoption. This is a significant legislative rule.

Hearing Location: Clark Community College, 1800 East McLoughlin Boulevard, Foster Auditorium, Vancouver, WA 98663-3598, Sheryl, (360) 992-2713, on **February 26, 2002**, Tuesday, at 7:00 p.m. - 9:00 p.m.; at the Seattle Vocational Institute, 2120 South Jackson Street, Seattle, WA 98144, (206) 587-4950, on **February 28, 2002**, Thursday, at 7:00 p.m. - 9:00 p.m.; at the Chapel Hill Church, Memorial Chapel Room, 7700 Skansie Avenue N.W., Gig Harbor, WA 98335, Tori, (253) 851-7779, on **March 5, 2002**, Tuesday, at 7:00 p.m. - 9:00 p.m.; and at the Skagit Valley College, San Juan Center, 221 Weber Way, Friday Harbor, WA 98250, Kathy, (360) 378-3220, on **March 12, 2002**, Tuesday, at 7:00 p.m. - 9:00 p.m.

Assistance for Persons with Disabilities: Contact Rich Phipps by February 15, 2002, (or one day before each hearing), TDD (360) 902-1125, or (360) 902-1091.

Submit Written Comments to: Rich Phipps, 1111 Washington Street S.E., Olympia, WA 98504, rich.phipps@wadnr.gov, fax (360) 902-1786, by March 22, 2002.

Date of Intended Adoption: April 2, 2002.

January 22, 2002

Doug Sutherland

Commissioner of Public Lands

AMENDATORY SECTION (Amending Order 580, filed 11/5/91, effective 12/6/91)

WAC 332-30-106 Definitions. All definitions in this section shall apply to the department and to port districts managing aquatic lands under a management agreement (WAC 332-30-114). For the purpose of this chapter:

(1) "Accretion" means the natural buildup of shoreline through the gradual deposit of alluvium. The general principle of common law applicable is that a riparian or littoral owner gains by accretion and reliction, and loses by erosion. Boundary lines generally will change with accretion.

(2) "Alluvium" means material deposited by water on the bed or shores.

(3) "Anniversary date" means the month and day of the start date of an authorization instrument unless otherwise specified in the instrument.

(4) "Aquaculture" means the culture and/or farming of food fish, shellfish, and other aquatic plants and animals in fresh water, brackish water or salt water areas. Aquaculture practices may include but are not limited to hatching, seeding or planting, cultivating, feeding, raising, harvesting of planted crops or of natural crops so as to maintain an optimum yield, and processing of aquatic plants or animals.

(5) "Aquatic lands" means all state-owned tidelands, shorelands, harbor areas, and the beds of navigable waters (RCW 79.90.010). Aquatic lands are part of the public lands of the state of Washington (see subsection (49) of this section). Included in aquatic lands are public places subsection (51) of this section, waterways subsection (74) of this section, bar islands, avulsively abandoned beds and channels of navigable bodies of water, managed by the department of natural resources directly, or indirectly through management agreements with other governmental entities.

(6) "Aquatic land use classes" means classes of uses of tideland, shorelands and beds of navigable waters that display varying degrees of water dependency. See WAC 332-30-121.

(7) "Authorization instrument" means a lease, material purchase, easement, permit, or other document authorizing use of state-owned aquatic lands and/or materials.

(8) "Avulsion" means a sudden and perceptible change in the shoreline of a body of water. Generally no change in boundary lines occurs.

(9) "Beds of navigable waters" means those submerged lands lying waterward of the line of extreme low tide in navigable tidal waters and waterward of the line of navigability in navigable lakes, rivers and streams. The term, "bedlands" means beds of navigable waters.

(10) "Commerce" means the exchange or buying and selling of goods and services. As it applies to aquatic land, commerce usually involves transport and a land/water interface.

(11) "Covered moorage" means slips and mooring floats that are covered by a single roof with no dividing walls.

(12) "Department" means the department of natural resources.

(13) "Dredging" means enlarging or cleaning out a river channel, harbor, etc.

(14) "Educational reserves" means accessible areas of aquatic lands typical of selected habitat types which are suitable for educational projects.

(15) "Enclosed moorage" means moorage that has completely enclosed roof, side and end walls similar to a car garage i.e. boathouse.

(16) "Environmental reserves" means areas of environmental importance, sites established for the continuance of environmental baseline monitoring, and/or areas of historical, geological or biological interest requiring special protective management.

(17) "Erosion" means the gradual cutting away of a shore by natural processes. Title is generally lost by erosion, just as it is gained by accretion.

(18) "Extreme low tide" means the line as estimated by the federal government below which it might reasonably be expected that the tide would not ebb. In Puget Sound area generally, this point is estimated by the federal government to be a point in elevation 4.50 feet below the datum plane of mean lower low water, (0.0). Along the Pacific Ocean and in the bays fronting thereon and the Strait of Juan de Fuca, the elevation ranges down to a minus 3.5 feet in several locations.

(19) "Fair market value" means the amount of money which a purchaser willing, but not obligated, to buy the property would pay an owner willing, but not obligated, to sell it, taking into consideration all uses to which the property is adapted and might in reason be applied (Donaldson v. Greenwood, 40 Wn.2d 238, 1952). Such uses must be consistent with applicable federal, state and local laws and regulations affecting the property as of the date of valuation.

(20) "First class shorelands" means the shores of a navigable lake or river belonging to the state not subject to tidal flow, lying between the line of ordinary high water and the line of navigability, or the inner harbor line where established and within or in front of the corporate limits of any city, or within two miles thereof upon either side (RCW 79.90.040). These boundary descriptions represent the general rule; however exceptions do exist. To determine if the shorelands are within two miles of the corporate limits of a city, the distance is measured along the shoreline from the intersection of the corporate limit with the shoreline.

(21) "First class tidelands" means the shores of navigable tidal waters belonging to the state lying within or in front of the corporate limits of any city, or within one mile thereof upon either side and between the line of ordinary high tide and the inner harbor line; and within two miles of the corporate limits on either side and between the line of ordinary high tide and the line of extreme low tide (RCW 79.90.030). In general, the line of ordinary high tide is the landward

boundary. The line of extreme low tide, or the inner harbor line where established, is the waterward boundary. To determine if the tidelands are within two miles of the corporate limits of a city, the distance is measured along the shoreline from the intersection of the corporate limit with the shoreline.

(22) "Fiscal year" means a period of time commencing on the first day of July and ending on the thirtieth day of June of the succeeding year. A fiscal year is identified by the year in which it ends, e.g., fiscal year 1985 is the period July 1, 1984 through June 30, 1985.

(23) "Governmental entity" means the federal government, the state, county, city, port district, or other municipal corporation or political subdivision thereof.

(24) "Harbor area" means the area of navigable waters determined as provided in section 1 of Article XV of the state Constitution which shall be forever reserved for landings, wharves, streets, and other conveniences of navigation and commerce (RCW 79.90.020). Harbor areas exist between the inner and outer harbor lines as established by the state harbor line commission.

(25) "Harbor area use classes" means classes of uses of harbor areas that display varying degrees of conformance to the purpose for which harbor areas were established under the Constitution.

(26) "Harbor line" means either or both: (a) A line (outer harbor line) located and established in navigable waters as provided for in section 1 of Article XV of the state Constitution beyond which the state shall never sell or lease any rights whatever to private persons (RCW 79.90.015). (b) A line (inner harbor line) located and established in navigable waters between the line of ordinary high tide and the outer harbor line, constituting the inner boundary of the harbor area (RCW 79.90.025).

(27) "Houseboat" means a floating structure (~~normally incapable of self-propulsion and usually permanently moored that serves as a place of residence or business. Otherwise called a floating home~~) that is designed, or has been substantially and structurally remodeled or redesigned, to serve primarily as a residence. "Houseboat" also includes any other floating structure that is used as a residence as provided in subsection (62) of this section but does not qualify as a live-aboard boat as provided in subsection (34) of this section. "Houseboat" includes structures that may otherwise be called a floating home or house barge, if the structure meets the definition in this subsection. A floating structure that is used as a residence and is capable of navigation, but is not designed primarily for navigation, is a houseboat, not a live-aboard boat.

(28) "Inflation rate" means, for a given year, the percentage rate of change in the previous calendar year's all commodity producer price index of the Bureau of Labor Statistics of the United States department of commerce (RCW 79.90.465). The rate published by the bureau during May of each year for the previous calendar year shall be the rate for the previous calendar year.

(29) "Interest rate" shall be twelve percent per annum (RCW 79.90.520).

(30) "Interim uses" means certain uses which may, under special circumstances, be allowed to locate in harbor areas (see WAC 332-30-115(5)).

(31) "Inventory" means both a compilation of existing data on man's uses, and the biology and geology of aquatic lands as well as the gathering of new information on aquatic lands through field and laboratory analysis. Such data is usually presented in map form such as the *Washington Marine Atlas*.

(32) "Island" means a body of land entirely and customarily surrounded by water. Land in navigable waters which is only surrounded by water in times of high water, is not an island within the rule that the state takes title to newly formed islands in navigable waters.

(33) "Line of navigability" means a measured line at that depth sufficient for ordinary navigation as determined by the board of natural resources for the body of water in question.

(34) "Live-aboard boat" means a floating structure that is designed primarily for navigation, is completely seaworthy and ready for immediate navigation in local waters, meets all applicable laws and regulations pertaining to navigation and safety equipment on vessels, including, but not limited to, registration as a vessel by an appropriate government agency, and is used as a residence as provided in subsection (62) of this section.

(35) "Log booming" means placing logs into and taking them out of the water, assembling and disassembling log rafts before or after their movement in water-borne commerce, related handling and sorting activities taking place in the water, and the temporary holding of logs to be taken directly into a processing facility (RCW 79.90.465).

~~((35))~~ (36) "Log storage" means the water storage of logs in rafts or otherwise prepared for shipment in water-borne commerce, but does not include the temporary holding of logs to be taken directly into a vessel or processing facility (RCW 79.90.465).

~~((36))~~ (37) "Marine land" means those lands from the mean high tide mark waterward in marine and estuarine waters, including intertidal and submerged lands. Marine lands represents a portion of aquatic lands.

~~((37))~~ (38) "Meander line" means fixed determinable lines run by the federal government along the banks of all navigable bodies of water and other important rivers and lakes for the purpose of defining the sinuosities of the shore or bank and as a means of ascertaining the areas of fractional subdivisions of the public lands bordering thereon.

~~((38))~~ (39) "Motorized vehicular travel" means movement by any type of motorized equipment over land surfaces.

~~((39))~~ (40) "Multiple use management" means a management philosophy which seeks to insure that several uses or activities can occur at the same place at the same time. The mechanism involves identification of the primary use of the land with provisions such as performance standards to permit compatible secondary uses to occur.

~~((40))~~ (41) "Navigability or navigable" means that a body of water is capable or susceptible of having been or being used for the transport of useful commerce. The state of Washington considers all bodies of water meandered by government surveyors as navigable unless otherwise declared by a court.

~~((41))~~ (42) "Navigation" means the movement of vessels to and from piers and wharves.

~~((42))~~ (43) "Nonwater-dependent use" means a use that can operate in a location other than on the waterfront. Examples include, but are not limited to, hotels, condominiums, apartments, restaurants, retail stores, and warehouses not part of a marine terminal or transfer facility (RCW 79.90.465).

~~((43))~~ (44) "Open moorage" means moorage slips and mooring floats that have completely open sides and tops.

~~((44))~~ (45) "Open water moorage and anchorage areas" are areas of state-owned aquatic lands leased for moorage and anchorage that do not abut uplands and do not include a built connection to the uplands. They are generally in the center of a waterbody, to provide moorage in addition to any marinas and docks along the edge of the waterbody. They may contain mooring buoys, floating moorage docks, other moorage facilities not connected to the shoreline, and/or anchorage areas, as determined by the lessee and approved by the department. These areas are leased in accordance with WAC 332-30-139(4) and subject to the restrictions therein.

(46) "Optimum yield" means the yield which provides the greatest benefit to the state with particular reference to food production and is prescribed on the basis of the maximum sustainable yield over the statewide resource base as modified by any relevant economic, social or ecological factor.

~~((45))~~ (47) "Ordinary high tide" means the same as mean high tide or the average height of high tide. In Puget Sound, the mean high tide line varies from 10 to 13 feet above the datum plane of mean lower low water (0.0).

~~((46))~~ (48) "Ordinary high water" means, for the purpose of asserting state ownership, the line of permanent upland vegetation along the shores of nontidal navigable waters. In the absence of vegetation, it is the line of mean high water.

~~((47))~~ (49) "Port district" means a port district created under Title 53 RCW (RCW 79.90.465).

~~((48))~~ (50) "Public benefit" means that all of the citizens of the state may derive a direct benefit from departmental actions in the form of environmental protection; energy and mineral production; utilization of renewable resources; promotion of navigation and commerce by fostering water-dependent uses; and encouraging direct public use and access; and generating revenue in a manner consistent with RCW 79.90.455.

~~((49))~~ (51) "Public lands" means lands belonging to or held in trust by the state, which are not devoted to or reserved for a particular use by law, and include state lands, tidelands, shorelands and harbor areas as herein defined, and the beds of navigable waters belonging to the state (RCW 79.01.004).

~~((50))~~ (52) "Public interest" means ...(reserved)

~~((51))~~ (53) "Public place" means a part of aquatic lands set aside for public access through platted tidelands, shorelands, and/or harbor areas to the beds of navigable waters.

~~((52))~~ (54) "Public tidelands" means tidelands belonging to and held in public trust by the state for the citizens of the state, which are not devoted to or reserved for a particular use by law.

~~((53))~~ (55) "Public trust" means that certain state-owned tidelands, shorelands and all beds of navigable waters are held in trust by the state for all citizens with each citizen having an equal and undivided interest in the land. The

department has the responsibility to manage these lands in the best interest of the general public.

~~((54))~~ (56) "Public use" means to be made available daily to the general public on a first-come, first-served basis, and may not be leased to private parties on any more than a day use basis.

~~((55))~~ (57) "Public use beach" means a state-owned beach available for free public use but which may be leased for other compatible uses.

~~((56))~~ (58) "Public utility line" means pipes, conduits, and similar facilities for distribution of water, electricity, natural gas, telephone, other electronic communication, and sewers, including sewer outfall lines (RCW 79.90.465).

~~((57))~~ (59) "Real rate of return" means the average for the most recent ten calendar years of the average rate of return on conventional real property mortgages as reported by the Federal Home Loan Bank Board or any successor agency, minus the average inflation rate for the most recent ten calendar years (RCW 79.90.465).

~~((58))~~ (60) "Reliction" means the gradual withdrawal of water from a shoreline leaving the land uncovered. Boundaries usually change with reliction.

~~((59))~~ (61) "Renewable resource" means a natural resource which through natural ecological processes is capable of renewing itself.

~~((60))~~ (62) "Residential use" includes any single or multifamily housing, including apartments, condominiums, live-aboard boats, and houseboats.

(a) For the purpose of defining a live-aboard boat or houseboat, a floating structure is considered to be used as a residence when any one of the following apply:

(i) Any person or succession of different persons occupies the floating structure on more than a total of thirty days in any forty-day period or on more than a total of ninety days in any three hundred sixty five-day period, while the floating structure is moored or anchored in the same area. "In the same area" means within a radius of one mile of any location where the same floating structure previously moored or anchored on state-owned aquatic lands. A boat that is occupied and is moored or anchored in the same area, but not for the number of days described in this subsection, is a recreational or transient boat, not a live-aboard boat;

(ii) The city or county jurisdiction, through local ordinance or policy, defines the use as a residential use or identifies the occupant of the floating structure as a resident of the facility;

(iii) The operator of the facility where the floating structure is moored, through the moorage agreement, billing statement, or facility rules, defines the use as a residential use or identifies the occupant of the floating structure as a resident of the facility; or

(iv) The occupant or occupants identify the floating structure or the facility where it is moored as their residence for voting, mail, tax, or similar purposes.

(b) The following floating structures shall also be considered a residential use:

(i) Floating structures that are used for a home-based business in accordance with applicable laws and requirements, where the business use is secondary to the use as a residence;

(ii) Commercial vessels that have a live-aboard crew while moored or anchored between work periods; and

(iii) Floating structures that are leased as rental housing. Floating structures used primarily for any other commercial activity, including as a motel, boatel, or hotel, are considered commercial uses, and cannot be classified as either live-aboard boats or houseboats.

~~((61))~~ (63) "Riparian" means relating to or living or located on the bank of a natural water course, such as a stream, lake or tidewater.

~~((61))~~ (64) "Scientific reserves" means sites set aside for scientific research projects and/or areas of unusually rich plant and animal communities suitable for continuing scientific observation.

~~((62))~~ (65) "Second class shorelands" means the shores of a navigable lake or river belonging to the state, not subject to tidal flow, lying between the line of ordinary high water and the line of navigability, and more than two miles from the corporate limits of any city (RCW 79.90.045). These boundary definitions represent the general rule; however, exceptions do exist. To determine if shorelands are more than two miles from the corporate limits of a city, the distance is measured along the shoreline from the intersection of the corporate limit with the shoreline.

~~((63))~~ (66) "Second class tidelands" means the shores of navigable tidal waters belonging to the state, lying outside of and more than two miles from the corporate limits of any city and between the line of ordinary high tide and the line of extreme low tide (RCW 79.90.035). In general, the line of ordinary high tide is the landward boundary. The line of extreme low tide is the waterward boundary. To determine if the tidelands are more than two miles from the corporate limits of a city, the distance is measured along the shoreline from the intersection of the corporate limit with the shoreline.

~~((64))~~ (67) "Shore" means that space of land which is alternately covered and left dry by the rising and falling of the water level of a lake, river or tidal area.

~~((65))~~ (68) "State-owned aquatic lands" means those aquatic lands and waterways administered by the department of natural resources or managed under department agreement by a port district. "State-owned aquatic lands" does not include aquatic lands owned in fee by, or withdrawn for the use of, state agencies other than the department of natural resources (RCW 79.90.465).

~~((66))~~ (69) "Statewide value." The term statewide value applies to aquatic land uses and natural resources whose use, management, or intrinsic nature have statewide implications. Such uses and resources may be either localized or distributed statewide. Aquatic land uses of statewide value provide major statewide public benefits. Public use and access, renewable resource use and water-dependent use have been cited by the legislature as examples of such uses. Aquatic land natural resources of statewide value are those critical or uniquely suited to aquatic land uses of statewide value or to environmental quality. For example, wild and scenic rivers, high quality public use beaches and aquatic lands fronting state parks are of statewide value for public use and access. Commercial clam and geoduck beds and sites uniquely suited to aquaculture are of statewide value to renewable resource use. Harbor areas are of statewide value

to water-dependent navigation and commerce. Certain aquatic land habitats and plant and animal populations are of statewide value to recreational and commercial fisheries, wildlife protection, and scientific study.

~~((67))~~ (70) "Streamway" means stream dependent corridor of single or multiple, wet or dry channel, or channels within which the usual seasonal or storm water run-off peaks are contained, and within which environment the flora, fauna, soil and topography is dependent on or influenced by the height and velocity of the fluctuating river currents.

~~((68))~~ (71) "Terminal" means a point of interchange between land and water carriers, such as a pier, wharf, or group of such, equipped with facilities for care and handling of cargo and/or passengers (RCW 79.90.465).

~~((69))~~ (72) "Thread of stream - thalweg" means the center of the main channel of the stream at the natural and ordinary stage of water.

~~((70))~~ (73) "Town" means a municipal corporation of the fourth class having not less than three hundred inhabitants and not more than fifteen hundred inhabitants at the time of its organization (RCW 35.01.040).

~~((71))~~ (74) "Water-dependent use" means use which cannot logically exist in any location but on the water. Examples include, but are not limited to, waterborne commerce; terminal and transfer facilities; ferry terminals; watercraft sales in conjunction with other water dependent uses; watercraft construction, repair, and maintenance; moorage and launching facilities; aquaculture; log booming; and public fishing piers and parks (RCW 79.90.465(1)). The moorage of live-aboard boats shall also be considered a water-dependent use consistent with RCW 79.90.465(1).

~~((72))~~ (75) "Waterfront" means a parcel of property with upland characteristics which includes within its boundary, a physical interface with the existing shoreline of a body of water.

~~((73))~~ (76) "Water oriented use" means use which historically has been dependent on a waterfront location, but with existing technology could be located away from the waterfront. Examples include, but are not limited to, wood products manufacturing, watercraft sales, fish processing, petroleum refining, sand and gravel processing, log storage, and houseboats (RCW 79.90.465).

~~((74))~~ (77) "Waterway" means an area platted across aquatic lands or created by a waterway district providing for access between the uplands and open water, or between navigable bodies of water.

~~((75))~~ (78) "Wetted perimeter" means a fluctuating water line which separates submerged river beds from the dry shoreland areas at any given time.

AMENDATORY SECTION (Amending Resolution No. 500, filed 11/5/85)

WAC 332-30-115 Harbor area use classes. These classes are based on the degree to which the use conforms to the intent of the constitution that designated harbor areas be reserved for landings, wharves, streets and other conveniences of navigation and commerce.

(1) **Water-dependent commerce.** Water-dependent commerce are all uses that cannot logically exist in any other

location but on the water and are aids to navigation and commerce. These are preferred harbor area uses. Leases may be granted up to the maximum period allowed by the Constitution and may be renewed. Typical uses are:

- (a) Public or private vessel terminal and transfer facilities which handle general commerce including the cargo handling facilities necessary for water oriented uses.
- (b) Public and private terminal facilities for passenger vessels.
- (c) Watercraft construction, repair, maintenance, servicing and dismantling.
- (d) Marinas and mooring areas.
- (e) Tug and barge companies facilities.
- (f) Log booming.

(2) **Water-oriented commerce.** Water oriented commerce are commercial uses which historically have been dependent on waterfront locations, but with existing technology could be located away from the waterfront. Existing water-oriented uses may be asked to yield to water dependent commercial uses when the lease expires. New water-oriented commercial uses will be considered as interim uses. Typical uses are:

- (a) Wood products manufacturing.
- (b) Watercraft sales.
- (c) Fish processing.
- (d) Sand and gravel companies.
- (e) Petroleum handling and processing plants.
- (f) Log storage.

(3) **Public access.** Facilities for public access are lower priority uses which do not make an important contribution to navigation and commerce for which harbor areas are reserved, but which can be permitted providing that the harbor area involved is not needed, or is not suitable for water-dependent commerce. Leases may be issued for periods up to thirty years with possible renewals. Typical uses are:

- (a) Public fishing piers.
- (b) Public waterfront parks.
- (c) Public use beaches.
- (d) Aquariums available to the public.
- (e) Underwater parks and reefs.
- (f) Public viewing areas and walkways.

(4) **Residential use.** For the purpose of this section only, residential uses include apartments, condominiums, live-aboard boats, houseboats, single and multifamily housing, motels, boatels and hotels. Residential uses do not require harbor area locations and are frequently incompatible with water-dependent commerce. New residential uses will not be permitted to locate in harbor areas, except that live-aboard boats will be permitted wherever nonlive-aboard boats are permitted if the live-aboard boats are otherwise allowed by WAC 332-30-171 and meet all applicable laws and lease requirements. This restriction on new leases differentiates residential uses from interim uses. Existing residential uses may be asked to yield to other uses when the lease expires. Proposed renewals of residential leases will require the same analysis as specified for interim uses.

(5) **Interim uses.** Interim uses are all uses other than water-dependent commerce, existing water-oriented commerce, public access facilities, and residential uses. Interim

uses do not require waterfront locations in order to properly function. Leases may only be issued and reissued for interim uses in exceptional circumstances and when compatible with water dependent commerce existing in or planned for the area. See WAC 332-30-137 Nonwater-dependent uses for evaluation standards.

(6) Areas withdrawn are harbor areas which are so located as to be currently unusable. These areas are temporarily withdrawn pending future demand for constitutional uses. No leases are issued.

AMENDATORY SECTION (Amending Order 343, filed 7/3/80)

WAC 332-30-139 Marinas and moorages. (1) Moorage facilities developed on aquatic lands should meet the following design criteria:

(a) Moorage shall be designed so as to be compatible with the local environment and to minimize adverse esthetic impacts.

(b) Open moorage is preferred in relatively undeveloped areas and locations where view preservation is desirable, and/or where leisure activities are prevalent.

(c) Covered moorage may be considered in highly developed areas and locations having a commercial environment.

(d) Enclosed moorage should be confined to areas of an industrial character where there is a minimum of esthetic concern.

(e) In general, covered moorage is preferred to enclosed moorage and open moorage is preferred to covered moorage.

(f) View encumbrance due to enclosed moorage shall be avoided in those areas where views are an important element in the local environment.

(g) In order to minimize the impact of moorage demand on natural shorelines, large marina developments in urban areas should be fostered in preference to numerous small marinas widely distributed.

(h) The use of floating breakwaters shall be considered as protective structures before using solid fills.

(i) Dry moorage facilities (stacked dry boat storage) shall be considered as an alternative to wet storage in those locations where such storage will:

(i) Significantly reduce environmental or land use impacts within the water area of the immediate shoreline.

(ii) Reduce the need for expansion of existing wet storage when such expansion would significantly impact the environment or adjacent land use.

(2) Anchorages suitable for ~~((both residential and transient))~~ use by live-aboard boaters and upland residents with boats will be identified and established by the department in appropriate locations so as to provide additional moorage space.

(3) ~~((Upland sewage disposal approved by local government and appropriate state agencies is required for all vessels used as a residence at a marina or other location.~~

(4)) The department shall work with federal, state, local government agencies and other groups to determine acceptable locations for marina development, properly distributed to meet projected public need for the period 1980 to 2010.

(4) The department may lease open water moorage and anchorage areas to local government agencies. With the department's approval, the local government lessee may install mooring buoys or other floating moorage devices, designate anchorage locations, sublease moorage and anchorage in the area, collect rent and fees for such moorage and anchorage, and otherwise manage the area as a moorage facility.

(a) Open water moorage and anchorage areas must meet all relevant requirements normally applicable to a marina lease, which may include the placement, design, and operation of the area and any improvements within the area, payment of rent to the department, consideration of navigational and environmental impacts, and all other applicable permits and other requirements of law.

(b) Open water moorage and anchorage areas may not be in a harbor area nor in any location or configuration that would interfere with water-borne commerce and navigation.

(c) The leasing of state-owned aquatic lands for open water moorage and anchorage areas is subject to all preferences accorded upland, tideland, or shoreland owners in RCW 79.94.070, 79.94.260, 79.94.280, 79.95.010, and WAC 332-30-122.

(d) Any live-aboard boat or houseboat in an open water moorage and anchorage area must comply with WAC 332-30-171.

(e) Except for nongrandfathered houseboat moorage as defined in WAC 332-30-171 (3)(a)(ii), and those floating structures defined as part of a residential use in WAC 332-30-106 (62)(b), nonwater-dependent uses and commercial uses, are prohibited in open water moorage and anchorage areas. Uses prohibited by this subsection (e) are allowed when necessary because of an emergency that immediately threatens human life or property, for the duration of the emergency only.

(f) The department will not lease an open water moorage and anchorage area to an entity other than a local government agency. This restriction shall not affect use authorizations to public or private entities for mooring buoys, aquaculture net pens, or other floating structures otherwise allowed by law.

AMENDATORY SECTION (Amending Resolution No. 500, filed 11/5/85)

WAC 332-30-144 Private recreational docks. (1) **Applicability.** This section implements the permission created by RCW 79.90.105, Private recreational docks, which allows abutting residential owners, under certain circumstances, to install private recreational docks without charge. The limitations set forth in this section apply only to use of state-owned aquatic lands for private recreational docks under RCW 79.90.105. No restriction or regulation of other types of uses on aquatic lands is provided. This section shall not apply to port districts managing aquatic lands under a management agreement (WAC 332-30-114).

(2) **Eligibility.** The permission shall apply only to the following:

(a) An "abutting residential owner," being the owner of record of property physically bordering on public aquatic

land and either used for single family housing or for a multi-family residence not exceeding four units per lot.

(b) A "dock," being a securely anchored or fixed, open walkway structure visible to boaters and kept in good repair extending from the upland property, primarily used as an aid to boating by the abutting residential owner(s), and accommodating moorage by not more than four pleasure boats typical to the body of water on which the dock is located. Two or more abutting residential owners may install and maintain a single joint-use dock provided it meets all other design requirements of this section; is the only dock used by those owners; and that the dock fronts one of the owners' property.

(c) A "private recreational purpose," being a nonincome-producing, leisure-time, and discretionary use by the abutting residential owner(s).

(d) State-owned aquatic lands outside harbor areas designated by the harbor line commission.

(3) **Uses not qualifying.** Examples of situations not qualifying for the permission include:

(a) Yacht and boat club facilities;

(b) Houseboats and live-aboard boats;

(c) Resorts;

(d) Multi-family dwellings, including condominium ownerships, with more than four units;

(e) Uses other than docks such as launches and railways not part of the dock, bulkheads, landfills, dredging, breakwaters, mooring buoys, swim floats, and swimming areas.

(4) **Limitations.**

(a) The permission does not apply to areas where the state has issued a reversionary use deed such as for shellfish culture, hunting and fishing, or park purposes; published an allocation of a special use and the dock is inconsistent with the allocation; or granted an authorization for use such as a lease, easement, or material purchase.

(b) Each dock owner using the permission is responsible for determining the availability of the public aquatic lands. Records of the department are open for public review. The department will research the availability of the public aquatic lands upon written request. A fee sufficient to cover costs shall be charged for this research.

(c) The permission is limited to docks that conform to adopted shoreline master programs and other local ordinances.

(d) The permission is not a grant of exclusive use of public aquatic lands to the dock owner. It does not prohibit public use of any aquatic lands around or under the dock. Owners of docks located on state-owned tidelands or shorelands must provide a safe, convenient, and clearly available means of pedestrian access over, around, or under the dock at all tide levels. However, dock owners are not required to allow public use of their docks or access across private lands to state-owned aquatic lands.

(e) The permission is not transferable or assignable to anyone other than a subsequent owner of the abutting upland property and is continuously dependent on the nature of ownership and use of the properties involved.

(f) Live-aboard boats and houseboats are not permitted to be moored at a private recreational dock, except when such moorage is necessary because of an emergency that immedi-

ately threatens human life or property, for the duration of the emergency only.

(5) **Revocation.** The permission may be revoked or canceled if:

(a) The dock or abutting residential owner has not met the criteria listed in subsection (2) or (4) of this section; or

(b) The dock significantly interferes with navigation or with navigational access to and from other upland properties. This degree of interference shall be determined from the character of the shoreline and waterbody, the character of other in-water development in the vicinity, and the degree of navigational use by the public and adjacent property owners;

(c) The dock interferes with preferred water-dependent uses established by law; or

(d) The dock is a public health or safety hazard.

(6) **Appeal of revocation.** Upon receiving written notice of revocation or cancellation, the abutting residential owner shall have thirty days from the date of notice to file for an administrative hearing under the contested case proceedings of chapter 34.04 RCW. If the action to revoke the permission is upheld, the owner shall correct the cited conditions and shall be liable to the state for any compensation due to the state from the use of the aquatic lands from the date of notice until permission requirements are met or until such permission is no longer needed. If the abutting residential owner disclaims ownership of the dock, the department may take actions to have it removed.

(7) **Current leases.** Current lessees of docks meeting the criteria in this section will be notified of their option to cancel the lease. They will be provided a reasonable time to respond. Lack of response will result in cancellation of the lease by the department.

(8) **Property rights.** No property rights in, or boundaries of, public aquatic lands are established by this section.

(9) **Lines of navigability.** The department will not initiate establishment of lines of navigability on any shorelands unless requested to do so by the shoreland owners or their representatives.

(10) Nothing in this section is intended to address statutes relating to sales of second class shorelands.

AMENDATORY SECTION (Amending Order 343, filed 7/3/80)

WAC 332-30-148 Swim rafts and mooring buoys. (1) Swim rafts or mooring buoys will not be authorized where such structures will interfere with heavily traveled routes for watercraft, commercial fishing areas or on designated public use - wilderness beaches.

(2) Swim rafts or mooring buoys may be authorized on aquatic lands shoreward of the -3 fathom contour or within 200 feet of extreme low water or line of navigability whichever is appropriate. The placement of rafts and buoys beyond the -3 fathom contour or 200 feet will be evaluated on a case by case basis.

(3) No more than one structure may be installed for each ownership beyond extreme low water or line of navigability. However, ownerships exceeding 200 feet as measured along

the shoreline may be permitted more installations on a case by case basis.

(4) Swim rafts or buoys must float at least 12" above the water and be a light or bright color.

(5) Mooring buoys may be authorized beyond the limits described above on land designated by the department for anchorages.

(6) Live-aboard boats and houseboats shall not moor at swim rafts, mooring buoys, or other moorage facilities not connected to the shoreline, except within an open water moorage and anchorage area leased to a local government agency as provided in WAC 332-30-139(3). Such moorage may occur when necessary because of an emergency that immediately threatens human life or property, for the duration of the emergency only.

NEW SECTION

WAC 332-30-171 Live-aboard boats and houseboats.

(1) **Application.** This section applies only to houseboats and live-aboard boats, as defined in WAC 332-30-106 (27) and (34), located on state-owned aquatic lands. This section does not apply to floating structures not used as a residence, as defined in WAC 332-30-106 (62)(a), such as solely recreational or transient boats. This section does not apply to live-aboard boats or houseboats located on aquatic lands not owned by the state.

(2) **Live-aboard boats.** Moorage of a live-aboard boat is a water-dependent use.

(3) **Houseboats.** Moorage of a houseboat is a water-oriented use.

(a) **Classifying houseboat moorage under RCW 79.90.465(2).** In classifying houseboat moorage under RCW 79.90.465(2), the department will apply the following rules:

(i) If a houseboat moorage site had a houseboat moored there under a department lease on October 1, 1984, or if a houseboat was moored there for at least three years before October 1, 1984, then the department will classify that site as a water-dependent use for the purposes of determining rent. Such sites may be referred to as "grandfathered" sites.

(ii) If a houseboat moorage site did not have a houseboat moored there under a department lease on October 1, 1984, nor for at least three years before October 1, 1984, then the department shall classify that site as a nonwater-dependent use. Such sites may be referred to as "nongrandfathered" sites.

(iii) The classification of a grandfathered or nongrandfathered houseboat moorage site applies to the specific aquatic land being utilized for moorage of the houseboat, not to the houseboat itself.

(iv) The department shall classify each individual houseboat moorage slip within a moorage facility as a separate site. This may result in a marina containing both grandfathered and nongrandfathered houseboat moorage sites.

(v) If a houseboat vacates a grandfathered moorage site and either returns within thirty days or is replaced with another houseboat within thirty days, then the moorage site will remain grandfathered.

(vi) If a houseboat vacates a grandfathered moorage site and does not return within thirty days, future moorage of that houseboat in the same or a different site shall be nongrandfathered, unless the houseboat qualifies as a replacement houseboat under (a)(v) of this subsection.

(vii) After October 1, 1984, if a grandfathered site ceased or ceases being used for houseboat moorage for more than thirty consecutive days, then the site shall no longer be grandfathered.

(viii) When counting the thirty days described in (a)(v) through (vii) of this subsection, the department will exclude any time needed for repair of the houseboat.

(ix) If a lessee redesignates a grandfathered houseboat moorage slip within the lease area, consistent with the lease requirements, and notifies the department in advance of where the slip is to be redesignated, then the slip will remain grandfathered.

(x) If a houseboat was moored at a grandfathered site on October 1, 1984, but was relocated so that on the effective date of this rule the houseboat is moored at a nongrandfathered site, then the department may classify this new location as a grandfathered site if the houseboat meets all of the following criteria:

(A) The houseboat was on state-owned aquatic land leased on October 1, 1984, or was on state-owned aquatic lands for three years prior to October 1, 1984;

(B) The houseboat was continuously on state-owned aquatic lands from October 1, 1984, until the effective date of this rule, except for any time needed for repair of the houseboat; and

(C) The department receives within one year after the effective date of this rule, a request to have the current moorage site classified as a grandfathered site.

A houseboat that is relocated to a nongrandfathered site after the effective date of this rule cannot have the new site grandfathered as provided in (a)(ix) of this subsection.

(b) **Managing grandfathered houseboat moorage.** Houseboats moored in grandfathered sites that meet all applicable laws and are consistent with all lease requirements may remain. The department shall charge the water-dependent rental rate for such moorage.

(c) **Managing nongrandfathered houseboat moorage.**

(i) The department may authorize houseboat moorage at a nongrandfathered site only if the department determines that both of the following conditions are met:

(A) Acceptable sites and circumstances for houseboat moorage have been identified in an adopted local shoreline management master program that provides for the present and future needs of all uses, considers cumulative impacts to habitat and resources of statewide value, identifies specific areas or situations in which houseboat moorage will be allowed, and justifies the exceptional nature of those areas or situations; and

(B) The houseboat moorage is compatible with water-dependent uses existing in or planned for the area.

(ii) If a houseboat is moored at a nongrandfathered site that does not meet the conditions in (c)(i) of this subsection, but the site is authorized by a department lease and the houseboat and moorage meet all other applicable laws and are con-

sistent with all lease requirements, then the houseboat may remain until the termination of the lease or one year after the effective date of this rule, whichever is later. Thereafter, unless at that time it meets the conditions in (c)(i) of this subsection, the houseboat must vacate the nongrandfathered site.

(iii) If a houseboat is moored at a nongrandfathered site that does not meet the conditions in (c)(i) of this subsection and is not authorized by a department lease, then the houseboat must vacate the site within one year from the effective date of this rule, unless at that time it meets the conditions in (c)(i) of this subsection and the department chooses to grant a lease.

(iv) For nongrandfathered houseboat moorage sites, the department shall charge the nonwater-dependent rental rate. If a leased area contains both nongrandfathered houseboat moorage along with grandfathered houseboat moorage or other water-dependent uses, then the nonwater-dependent rental rate shall be applied to a proportionate share of any common areas used in conjunction with the nongrandfathered houseboat moorage, including, but not limited to, docks, breakwaters, and open water areas for ingress and egress to the facility.

(4) **Open water moorage.**

(a) Live-aboard boats and houseboats shall be moored, anchored, or otherwise secured only at a marina, pier, or similar fixed moorage facility that is connected to the shoreline, or in open water moorage and anchorage areas described under WAC 332-30-139(4) and subject to the restrictions therein. Live-aboard boats and houseboats shall not be moored, anchored or otherwise secured in open waters above state-owned aquatic lands away from a fixed moorage facility that is connected to the shoreline, nor be moored, anchored, or otherwise secured to any natural feature in the water or on the shoreline, except within an open water moorage and anchorage area. A live-aboard boat or houseboat may moor in areas prohibited by this subsection (4)(a) when necessary because of an emergency that immediately threatens human life or property, for the duration of the emergency only, or during transit between moorage locations, for the minimum time necessary for transit.

(b) Any live-aboard boat or houseboat that is moored on state-owned aquatic lands on the effective date of this rule, and complies with all other applicable laws and all lease requirements, but does not comply with (a) of this subsection, may remain until one year after the effective date of this rule or until the termination date of the existing department lease, whichever is later. Thereafter, unless at that time it meets the conditions in (a) of this subsection, the live-aboard boat or houseboat must vacate the site. The department shall not authorize or reauthorize any live-aboard boat moorage or houseboat moorage that does not comply with (a) of this subsection.

(5) **Sewage and waste disposal.**

(a) All live-aboard boats and houseboats shall use upland waste disposal facilities approved by appropriate local and state agencies. For the purposes of this section, "waste" includes sewage, other household waste water, oil, trash, garbage, refuse, ballast, junk, and other waste of any kind,

except bilge water, which must be disposed of according to other applicable laws and regulations.

(b) Each department lessee must establish and implement measures satisfactory to the department for ensuring upland waste disposal and preventing any discharge of waste onto or in the waters above state-owned aquatic lands from live-aboard boats and houseboats. This shall include a contingency plan in case of failure or unavailability of the waste disposal methods identified by the lessee and approved by the department. Each lessee must annually, or as otherwise provided in the lease, provide the department with evidence that all live-aboard boats and houseboats in their facility comply with this section and the terms of the department lease. This section does not require specific waste disposal measures so long as the measures established by the lessee and the department ensure upland disposal of waste.

(c) All new leases entered into following the effective date of this rule shall fully describe the waste disposal measures. These measures may include, but are not limited to:

- (i) Connection to an upland sewage system;
- (ii) Periodic sewage pump-out service, either at a pump-out station or with transportable pump-out equipment, including prepayment for such services and proof of participation by occupants of all live-aboard boats and houseboats;
- (iii) Installation of appropriate waste receptacles;
- (iv) Back-up and clean-up facilities and procedures as needed in case of failure or temporary inavailability of waste disposal systems;
- (v) Educational efforts, such as posting of notices, distribution of information, and training for residents on waste disposal methods and requirements;
- (vi) Monitoring of activities within the facility to prevent or identify and remedy improper waste disposal;
- (vii) Contractual requirements in moorage subleases requiring proper waste disposal by residents; and/or
- (viii) Other best management practices and/or best available technologies that are established by any local, state, or federal agency, including the department, or by any appropriate nongovernmental organization, that are satisfactory to the department to ensure upland disposal of waste and prevent any discharge of waste onto or in the waters above state-owned aquatic lands.

(6) Percent limit.

(a) The total number of live-aboard boats and houseboats, combined, in any marina, pier, open water moorage and anchorage area as provided in WAC 332-30-139(4), or other moorage facility shall be limited to the percentage established by the city or county jurisdiction in its local shoreline management master program. This limit may be a straight percentage limit of the total slips, or a combination of a percentage limit of the total slips and a qualitative standard that increases the percentage limit when a marina demonstrates it has:

- (i) A capacity or specific methods to handle the increased waste;
- (ii) Specific locations of residential slips that do not impact habitat or interfere with water-dependent uses; and

(iii) Specific methods to ensure residential uses do not result in shellfish decertification or other water quality impacts.

A local government may state in their shoreline master program that a moorage facility can allow up to a specific percentage limit of residential use, but may increase that percentage limit on a site-specific basis when a marina has proven the capacity for upland disposal of the increased waste and that the residential slip locations do not impact habitat, interfere with water-dependent uses, result in shellfish decertification, or impact water quality.

(b) When a moorage facility occupies both state-owned and nonstate-owned aquatic lands, the department may authorize any or all of the live-aboard boats and houseboats allowed under the percent limit within the entire facility to be located in the portion of the facility on state-owned aquatic lands.

(c) If the city or county jurisdiction has not established a percentage in its local shoreline management master program, then the total number of live-aboard boats and houseboats in any moorage facility shall be limited to ten percent of the total number of slips or spaces usable for moorage or anchorage in that facility. In this case, when a moorage facility occupies both state-owned and nonstate-owned aquatic lands, the percent limit applies only to the portion of the facility on state-owned aquatic lands.

(d) If a moorage facility has so few moorage slips or spaces that the percent limit allows for less than one live-aboard boat or houseboat, then one live-aboard boat or houseboat may be authorized, if allowed by the city or county jurisdiction.

(e) The department will calculate the percent limit in this subsection (6) based on the entire physical extent of the moorage facility, or the entire physical extent that is located on state-owned aquatic lands, as appropriate under (b) or (c) of this subsection. Dividing ownership or control of a facility, such as by creating condominium moorage, cannot result in a greater number of live-aboard boats or houseboats than would be authorized if the ownership or control of the facility were in a single entity.

(f) On the effective date of this section, if there are more live-aboard boats and houseboats, combined, in a moorage facility than are allowed by the percent limit established in this subsection (6), the department may authorize those specific live-aboard boats and houseboats to remain if all of the following conditions are met:

- (i) The department's lease authorizes a sufficient number of live-aboard boats and houseboats;
- (ii) The live-aboard boats, houseboats, and their moorage meet all applicable laws and are consistent with all lease requirements; and
- (iii) The lessee, within ninety days after being requested by the department, provides the department with the owner's name and the registration number or other unique identifier of each live-aboard boat and houseboat in the facility on the effective date of this section.

(g) If there are more live-aboard boats and houseboats, combined, in a moorage facility than allowed by the percent limit, then no new or additional live-aboard boats or houseboats, including replacements for grandfathered houseboats

under subsection (3)(a)(v) of this section, may be authorized in that facility. In such cases, any live-aboard boat or houseboat that leaves the facility for a period of time greater than thirty days may not return to the facility until the total number of live-aboard boats and houseboats, combined, is below the percent limit. For purposes of counting the thirty days described in this subsection (6)(g), the department shall not include time needed for repairs to the live-aboard boat or houseboat, nor any time when a live-aboard boat is away from the moorage facility but the owner or operator of the live-aboard boat continuously maintains a written moorage agreement for that facility.

WSR 02-03-117
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Aging and Adult Services Administration)

[Filed January 22, 2002, 4:06 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-07-057.

Title of Rule: Amending WAC 388-76-535, 388-76-61510, and 388-76-710; new sections WAC 388-76-64005, 388-76-64010, 388-76-64015, 388-76-64020, 388-76-64025, 388-76-64030 and 388-76-64035; and repealing WAC 388-76-640.

Purpose: Amending, adding and repealing rules on adult family homes to be consistent with current statute, and to make corrections.

Statutory Authority for Adoption: RCW 70.128.040, 69.41.085.

Statute Being Implemented: RCW 70.128.040, 69.41.085.

Summary: These rules on adult family homes add new statutory authority, increase the number of days allowed to prepare a negotiated care plan, and make corrections to outdated information. WAC 388-76-640 is repealed and replaced with six new WAC sections to provide greater clarity and to make them consistent with WAC 246-888-030 on medication assistance.

Reasons Supporting Proposal: At the time the adult family home rules on resident medications were finalized, the department did not have revisions to the statute on medication assistance and associated pharmacy rules. These rules have been updated to be consistent with RCW 69.41.085 and chapter 246-888 WAC, Medication assistance, and provide much greater clarity for adult family home providers related to resident medications.

Name of Agency Personnel Responsible for Drafting: Wayne Vrona, Aging and Adult Services Administration, (360) 725-2588; Implementation and Enforcement: Joyce Stockwell, Aging and Adult Services Administration, (360) 725-2404.

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: Chapter 69.41 RCW has been amended, and the department's adult family home rules are being revised consistent with the statute. WAC 388-76-640 is repealed and replaced with six new WAC sections to provide greater clarity and to make them consistent with WAC 246-888-030 on medication assistance. Outdated information in WAC 388-76-710 is corrected.

Proposal Changes the Following Existing Rules: WAC 388-76-61510 changes the time that the negotiated care plan must be completed from fourteen days to thirty days from the resident's admission. The change resulted from stakeholder input, as the RCW does not specify timelines.

WAC 388-76-640 is repealed and replaced by new sections on resident medications: WAC 388-76-64005, 388-76-64010, 388-76-64015, 388-76-64020, 388-76-64025, 388-76-64030, and 388-76-64035.

WAC 388-76-535 is amended to include RCW 69.41.085 as authority.

WAC 388-76-710 is amended to correct the Board of Appeals mailing address.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Residential care services has analyzed its proposed rules and concluded that they do not impose an increase in existing costs, an imposition of a new cost, or a decrease in benefit. Amended and new sections provide clarification of existing requirements, or update existing rules to conform to changes in state law. No new costs to small businesses are incurred.

RCW 34.05.328 applies to this rule adoption. A cost benefit analysis (CBA) has been completed in connection with these proposed rules. A copy of the CBA can be obtained from Wayne Vrona, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2588, fax (360) 438-7903, e-mail VronaWR@dshs.wa.gov.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th S.E., Rose Room, Lacey, WA 98503, on February 26, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by February 22, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@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, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., February 26, 2002.

Date of Intended Adoption: Not earlier than February 27, 2002.

January 18, 2002

Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3984, filed 6/19/96, effective 7/20/96)

WAC 388-76-535 Authority. The following rules are adopted under RCWs 70.128.040, 70.128.060, 70.128.120, 70.128.130, 43.43.842, 18.88A.210, ((and)) 18.88A.230, and 69.41.085.

AMENDATORY SECTION (Amending WSR 98-12-054, filed 5/29/98, effective 7/1/98)

WAC 388-76-61510 When must the negotiated care plan be developed? The plan must be developed within ((fourteen)) thirty days of the resident's admission.

RESIDENT MEDICATIONS

NEW SECTION

WAC 388-76-64005 Resident medication definitions. For purposes of this chapter, these definition apply:

"Administer" means the direct application of a legend (prescription-only) or over-the-counter medication whether by ingestion, inhalation, injection, or any other means, to the body of a resident.

"Authorized prescriber" means a health care professional with authority to order (prescribe) medication that is required by state law or regulation of the state board of pharmacy to be dispensed on prescription only.

"Enabler" means a physical device used to facilitate a resident's self-administration of a medication. Physical devices include, but are not limited to a medicine cup, glass, cup, spoons, bowl, pre-filled syringes, syringes used to measure oral liquids, specially adapted table surfaces, drinking straw, piece of cloth, and the resident's hand.

"Independent" means the ability to safely self-administer medication without assistance.

"Medication" includes medication that requires a prescription and medications that can be obtained over-the-counter, including vitamin, mineral, and herbal preparations.

"Medication assistance" means help rendered to a resident by a person who is not a practitioner to facilitate the resident's self-administration of a medication. Practitioners may also assist in accordance with their scope of practice.

"Medication organizer" means a container with separate areas for oral medications organized in daily doses.

"Over the counter medication" means any medication that can be obtained without a prescription.

"Practitioner" includes a physician, osteopathic physician, podiatric physician, pharmacist, licensed practical nurse, registered nurse, advanced registered nurse practitioner, dentist, and physician assistant. Refer to chapter 69.41 RCW for a complete listing of practitioners. The term **"practitioner"** does not include nursing assistants who perform nursing tasks under the nurse delegation program described in WAC 388-76-625 and 388-76-630.

"Self-administration" means the direct application of a medication whether by ingestion, inhalation, injection, or any other means, by the resident to his or her own body.

NEW SECTION

WAC 388-76-64010 What is a resident medication plan and how is it determined? (1) The resident medication plan is that portion of the negotiated care plan that documents the resident's ability to manage his or her medications. The medication plan is determined by the provider, and the resident, or the resident's representative in accordance with the requirements described in the negotiated care plan sections of this chapter (WAC 388-76-61500 through 388-76-61560).

Medication plans include:

- (a) Independent;
- (b) Self-administration with assistance; and
- (c) Administration by:

(i) A practitioner authorized in Washington state to administer medications;

(ii) A nursing assistant authorized in accordance with Nurse Delegation requirements of this chapter (WAC 388-76-625 and 388-76-630), and requirements established by the department of health nursing care quality assurance commission; or

(iii) A family member or surrogate decision maker.

(d) Combinations of (1)(a), (b) and (c) as determined by the resident's negotiated care plan and resident choice.

(2) When a resident has different medication plans for different medications, the provider must ensure that the requirements that apply to each plan are followed.

(3) Initiation of a self-administration with assistance plan requires that the practitioner consult with the resident or the resident's representative, or both, and the provider in making the decision in accordance with WAC 246-888-030.

NEW SECTION

WAC 388-76-64015 Why and how is the resident's medication plan changed? (1) The resident's medication plan may be changed for reasons including, but not limited to:

(a) The resident or resident's surrogate decision maker requests a change;

(b) The resident's authorized prescriber requests a change; and/or

(c) Re-assessment as required by WAC 388-76-61070 identifies changes to the resident's assessed condition, abilities and needs related to medications.

(2) The provider must ensure that changes to the resident's medication plan are made in accordance with WAC 388-76-64010.

(3) The provider must ensure that changes in the health status of the resident, his/her medications, physical or mental limitations, or other factors that may affect the resident's medication plan are reported to the resident's current authorized prescriber for possible re-evaluation of the appropriateness of the resident's medication plan.

NEW SECTION

WAC 388-76-64020 What general rules apply to medication plans? (1) When the authorized prescriber ini-

tiates a new medication or makes a change to any existing medication, the provider must:

- (a) Ensure that the change and date of the change are documented immediately on the daily medication log;
- (b) Request from the prescribing authority written verification of any medication change. Written verification may be by mail, facsimile, other electronic means, or may be the new, original labeled container from the pharmacy;
- (c) Coordinate with the resident's pharmacy to ensure that the new or changed medication is received from the pharmacy in sufficient time to begin the medication consistent with the new order;
- (d) Verify that the medication change was communicated to the resident's pharmacy by the prescribing authority; and
- (e) Ensure that the medication change is communicated to the individual filling the resident's medication organizer, if any.

For residents on an independent medication plan, the provider is exempt from subsections (1)(a) through (e) unless otherwise stipulated in the resident's negotiated care plan.

- (2) The resident always has the right to refuse medication.
- (3) The provider must ensure that medications are administered to or taken by the resident in accordance with the authorized prescriber's order for that medication unless the resident refuses the medication. The provider is exempted from this requirement for residents that are on an independent medication plan unless otherwise stipulated in the resident's negotiated care plan.
- (4) Except for residents on an independent medication plan, the provider must monitor residents' refusal of prescribed medication and seek a determination of the significance of the refusal from the resident's authorized prescriber.
- (5) Medications that the provider is responsible to store must be in:
 - (a) Their original containers and have the original, legible label; or
 - (b) Medication organizers filled in accordance with subsections (10) and (11) (filling and labeling of medication organizers) of this section.
- (6) The provider must ensure that all prescription and over-the-counter medications are kept in locked storage, except that residents on an independent medication plan will be responsible to keep their medications in locked or secured storage in accordance with WAC 388-76-64025 (3)(b) and (c).

(7) Except for residents on an independent medication plan, the provider must ensure that each resident has a daily medication log listing every medication administered to/taken by, or refused/not taken by each resident. The log must indicate the time that the medication was administered to/taken by, or refused/not taken by the resident.

(8) The medication log must be initialed only by the person who assisted the resident with the medication or administered the medication to the resident as soon as possible after the resident takes or refuses the medication, but not longer than one hour later.

When medication is assisted with or administered to the resident by a family member or surrogate decision maker, the adult family home employee must:

- (a) Verify that the medication was assisted with or administered;
 - (b) Check off on the medication log that the medication was taken or refused by the resident as soon as possible after the medication was administered to or taken by the resident; and
 - (c) Note in the medication log the name of the person who assisted with or administered that dose of medication.
- (9) Certain medications may be altered to facilitate the resident taking the medication. Alteration of a medication includes, but is not limited to, crushing tablets, cutting tablets in half, opening capsules, mixing powdered medications with foods or liquids, or mixing tablets or capsules with foods or liquids. Before medications may be altered, the provider must ensure that:

- (a) A pharmacist or other practitioner acting within his or her scope of practice determines that it is safe and appropriate to alter the medication; and
- (b) The appropriateness of the alteration is documented by:

- (i) The practitioner either in the resident's facility record or on the medication container; or
- (ii) The provider recording on the medication log the alteration decision and who made the decision.

(10) The provider must ensure that medication organizers, when used, are filled and labeled only by:

- (a) A resident who is independent with medications;
- (b) The resident's family member;
- (c) The resident's surrogate decision maker; or
- (d) A practitioner licensed in Washington state.

(11) The provider must ensure that each medication organizer, when used, carries a label that at a minimum clearly identifies the:

- (a) Resident's name;
- (b) Medication name and strength;
- (c) Amount and frequency taken.

(12) For the residents that leave the adult family home during the time periods when their medications are due, the provider must ensure that the negotiated care plan addresses how the resident will get these medications for use while out of the home.

(13) The provider must develop and implement house rules and policies to ensure these medications are not available for use: outdated/expired, not Federal Drug Administration (FDA) approved, FDA recalled, contaminated, deteriorated, damaged medications, and medication left behind by choice of the resident representative when a resident is transferred/discharged or dies.

(14) Self-directed care under RCW 74.39.050 is not allowed in adult family homes.

NEW SECTION

WAC 388-76-64025 What residents are appropriate for an independent medication plan and what is required for this plan? This section describes requirements specific to

the independent medication plan and are in addition to those described in WAC 388-76-64010, 388-76-64015 and 388-76-64020.

(1) The independent medication plan is for residents that are determined to be independent in self-administration of medication by not requiring assistance, in accordance with WAC 388-76-64010.

(2) Residents on an independent medication plan must be able, without assistance, to safely and directly apply a prescription medication or over-the-counter medication or controlled substance by ingestion, inhalation, injection or other means to their own body.

(3) Residents on an independent medication plan:

(a) Will administer their own medications;

(b) Will lock medications in their room; and

(c) May secure a medication on or near their person when so ordered by the authorized prescriber and specified in the negotiated care plan.

(4) For the resident on an independent medication plan, the provider must:

(a) Coordinate, as necessary, with the resident on new or changed medications;

(b) Not require that the resident maintain a record of medications unless otherwise stipulated in the resident's negotiated care plan.

NEW SECTION

WAC 388-76-64030 What residents are appropriate for a self-administration with assistance medication plan and what is required for this plan? This section describes requirements specific to the self-administration with assistance medication plan and are in addition to those described in WAC 388-76-64010, 388-76-64015 and 388-76-64020.

(1) The self-administration with assistance medication plan is for residents that are determined in accordance with WAC 388-76-64010 to be able to self-administer their own medications when they have the assistance of a caregiver. A caregiver who is not a practitioner may provide such assistance. Practitioners may provide assistance in accordance with their scope of practice.

(2) Residents on the self-administration with assistance plan must be able to:

(a) Put the medication into their own mouth or apply or instill the medication on or in the appropriate location on their body; and

(b) Indicate awareness that they are receiving medications, although not necessarily be able to state the name of the medication, intended effects, side effects, or other details.

(3) The self-administration with assistance medication plan allows the resident to self-administer medications with the use of an enabler and/or the assistance of a caregiver.

(4) For residents on the self-administration with assistance medication plan, the provider must ensure that:

(a) Assistance occurs immediately prior to the ingestion or application of the medication;

(b) The requirements described in this section are met; and

(c) Alteration of medication to facilitate the resident taking his or her medication meets the requirements described in WAC 388-76-64020(9).

(5) The self-administration with assistance medication plan allows the caregiver to:

(a) Remind or coach the resident to take his or her medication;

(b) Hand the medication container to the resident;

(c) Open the medication container;

(d) Place the medication in the resident's hand;

(e) Steady or guide a resident's hand while the resident applies or instills medication such as ointments, eye, ear, and nasal preparations;

(f) Use an enabler;

(g) Transfer a medication from one container to another for the purpose of an individual resident dose at the time of assistance with that resident;

(h) Assist with alteration of medication to facilitate the resident taking his or her medication(s) in accordance with WAC 388-76-64020(9);

(i) Assist a resident with an "as needed" (p.r.n.) medication provided that the caregiver is able to confirm the reason the medication is needed, and the prescriber's order clearly states the reason(s) the medication may be taken, how much may be taken and how often; and

(j) Assist the resident to self-administer medication through a gastrostomy or "g-tube" provided that:

(i) Such assistance is carried out in accordance with the requirements of this section. The resident must be able to self-administer medication through the "g-tube" and the caregiver who is not a practitioner may not place medications or any other substance into the "g-tube";

(ii) The prescription is written as an oral medication via "g-tube"; and

(iii) The practitioner has determined that the medication may be altered, if necessary, for use via "g-tube."

(6) Under the self-administration with assistance plan, the caregiver who is not a practitioner may not:

(a) Use hand over hand assistance (an action more than guiding resident's hand);

(b) Assist a resident with self-administration of intravenous or injectable medications, including insulin injections; and

(c) Choose a dose of insulin. A caregiver who is not a practitioner may deliver to the resident a pre-filled syringe provided that the resident chooses the dosage and self-administers the insulin.

NEW SECTION

WAC 388-76-64035 What residents are appropriate for an administration medication plan and what is required for residents in this plan? This section describes requirements specific to the administration medication plan and are in addition to those described in WAC 388-76-64010, 388-76-64015 and 388-76-64020.

(1) The administration medication plan is for residents that have been determined in accordance with WAC 388-76-64010 not able to safely self-administer medication indepen-

dently or with the assistance of a caregiver, and must have medications administered to them. The administration plan is not necessary for the application of nonprescription ointments or lotions that are part of "body care" as defined under "personal care services" in WAC 388-15-202 (38)(c).

(2) The provider must ensure that when a resident requires medication administration, the medication is administered only by:

(a) A person legally authorized in Washington state to administer medications, including:

- (i) Registered nurse;
- (ii) Licensed practical nurse; and
- (iii) Nursing assistant authorized and trained to administer medication, including "as needed" (p.r.n.) medication, as a delegated nursing task in accordance with WAC 388-76-625 and 388-76-630 and the requirements established by the department of health nursing care quality assurance commission.

(3) A resident's family member or surrogate decision maker may administer medications, including injectables, to the resident.

(4) For residents on the administration medication plan the provider must ensure that the requirements described in this section are met.

(5) A practitioner legally authorized in Washington state to administer medications is allowed to directly apply a medication whether by ingestion, inhalation, injection, or any other means, to the body of a resident.

(6) A nursing assistant authorized and trained to administer medications as a delegated nursing task may directly apply a specific medication to a specific resident in accordance with the individualized instructions of the delegating registered nurse, except for injectables and intravenous medications.

(7) Under the administration medication plan, a caregiver who is not a practitioner or not trained and authorized to administer medications as a delegated nursing task, is prohibited from directly applying a medication whether by ingestion, inhalation, injection, or any other means, to the body of a resident.

(8) Administration of injections, maintenance of central intravenous lines, and filling of medication organizers may not be delegated to the nursing assistant by the registered nurse under nurse delegation.

AMENDATORY SECTION (Amending WSR 96-14-003 (Order 3984), filed 6/19/96, effective 7/20/96)

WAC 388-76-710 Notice, hearing rights, and effective dates relating to imposition of remedies. (1) Chapter 34.05 RCW applies to department actions under this chapter and chapter 70.128 RCW, except that orders of the department imposing license suspension, stop placement, or conditions on a license are effective immediately upon notice and shall continue pending a final administrative decision on the merits.

(2) Civil monetary penalties shall become due twenty-eight days after the provider or the owner or operator of an unlicensed adult family home is served with a notice of the penalty unless the provider requests a hearing in compliance

with chapter 34.05 RCW and RCW 43.20A.215. If a hearing is requested, the penalty becomes due ten days after a final decision in the department's favor is issued. Interest shall accrue beginning thirty days after the department serves the provider with notice of the penalty at a rate of one percent per month in accordance with RCW 43.20B.695.

(3) A person contesting any decision by the department to impose a remedy shall within twenty-eight days of receipt of the decision:

(a) File a written application for an adjudicative proceeding by a method showing proof of receipt with the ~~(Office)~~ Board of Appeals (~~(P.O. Box 2465, Olympia, WA 98504)~~) at the mailing address contained in WAC 388-02-0030; and

(b) Include in or with the application:

- (i) The grounds for contesting the department decision; and
 - (ii) A copy of the contested department decision.
- (4) Administrative proceedings shall be governed by chapter 34.05 RCW, RCW 43.20A.215, where applicable, this section, and chapter ~~((388-08))~~ 388-02 WAC. If any provision in this section conflicts with chapter ~~((388-08))~~ 388-02 WAC, the provision in this section governs.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-76-640 Resident medications.

**WSR 02-03-118
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed January 22, 2002, 4:09 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-17-054.

Title of Rule: Chapter 388-15 WAC, Child protective services.

Purpose: To rewrite current rules in a clear writing format, to comply with Executive Order 97-02 and to repeal outdated rules.

Statutory Authority for Adoption: RCW 74.13.031.

Statute Being Implemented: Chapters 26.44 and 74.13 RCW.

Summary: Rewrite rules in clear format, to update requirements, to include client right of review, and repeal outdated rules.

Reasons Supporting Proposal: The rules are updated to reflect current federal and state law and regulation and to comply with Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Stephanie J. Sarber, P.O. Box 45710, Olympia, WA 98504-5710, (360) 902-7563.

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 rules recodify existing rules in new sections, restate the rules in clear writing format and update existing rules to reflect current state and federal law and regulation. The adopted rules will provide clear, concise answers to persons seeking information regarding child protective services.

Proposal Changes the Following Existing Rules: New rules outline the child protective services (CPS) notification process for alleged perpetrators of child abuse or neglect investigative findings. New rules will also outline the procedures, review process, and administrative hearings process regarding the appeal of substantiated CPS investigative findings of child abuse or neglect.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Children's Administration has analyzed the proposed WAC changes and concludes that no new costs will be imposed on the small businesses impacted by these WACs. Preparation of a small business economic impact statement is not required.

RCW 34.05.328 does not apply to this rule adoption. The proposal clarifies language of existing rules without changing effect. See RCW 34.05.328 (5)(b)(iv).

Hearing Location: Office Building 2 (OB-2), 14th and Jefferson, Olympia, Washington 98504, on March 12, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by March 8, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@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, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., March 12, 2002.

Date of Intended Adoption: Not earlier than March 13, 2002.

January 17, 2002

Bonnie H. Jacques

for Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 02-04 issue of the Register.

WSR 02-03-119

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Office of the Secretary)

[Filed January 22, 2002, 4:12 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-24-064.

Title of Rule: New section WAC 388-01-015 Does any provision of this title create a right or cause of action, or compel DSHS to establish a program or entitlement?

Purpose: DSHS seeks to adopt a new section of chapter 388-01 WAC to clarify the department's responsibilities where statute or regulations may be silent as to whether the statute or regulation created or implied a right of action or compelled the department to create a program or entitlement.

Statutory Authority for Adoption: RCW 42.17.250, 43.17.060,

Statute Being Implemented: RCW 42.17.250.

Summary: This rule is needed to address recent court decisions in which the court have found that legislation or administrative rules implied a right of action, or compelled an agency to establish a program or entitlement, because the legislation or rule was silent on whether it created or implied a right of action, or compelled the establishment of a program or entitlement.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bernard H. Friedman, Office of the Secretary, P.O. Box 45010, Olympia, WA 98504, (360) 902-7860.

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 new section of chapter 388-01 WAC to clarify the department's responsibilities where statute or regulations may be silent as to whether the statute or regulation created or implied a right of action or compelled the department to create a program or entitlement.

Proposal does not change existing rules.

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

RCW 34.05.328 does not apply to this rule adoption. The proposed rule is a significant legislative rule under RCW 34.05.328, but is exempt under RCW 34.05.328 (5)(b)(ii).

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on February 26, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by February 22, 2002, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@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, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., February 26, 2002.

Date of Intended Adoption: Not earlier than February 27, 2002.

January 17, 2002

Bonnie H. Jacques

for Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-01-015 Does any provision in this title create a right or cause of action, or compel DSHS to establish a program or entitlement? No provision in Title 388 WAC creates or is intended to create any right or cause of action, or adds to or intends to add to any existing right or cause of action, nor may anything in Title 388 WAC be relied upon to compel the establishment of any program or special entitlement.

**WSR 02-03-123
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**
[Filed January 23, 2002, 9:22 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-23-079.

Title of Rule: Workers' compensation plan, chapter 296-17 WAC.

Purpose: Agency proposes to revise the general reporting rules and classification plan. This includes amending one general reporting rule and amending four drywall risk classification definitions applicable to chapter 296-17 WAC for workers' compensation insurance underwritten by the Department of Labor and Industries.

Statutory Authority for Adoption: RCW 51.16.035.

Statute Being Implemented: RCW 51.16.035.

Summary: The department proposes to amend one general reporting rule and amend four drywall risk classification definitions.

Reasons Supporting Proposal: RCW 51.16.035 requires that the department maintain actuarial solvency of the industrial insurance (workers' compensation) funds and maintain a classification plan. Adjustments to the classification and rating plan reflect changes in Washington industries. Revisions to general reporting rules and risk classification definitions are being amended to provide greater detail and clarity for rules applicable to drywall industry.

Name of Agency Personnel Responsible for Drafting: Ken Woehl/Jim Johnson, Tumwater, Washington, (360) 902-4775/459-6566; Implementation: Kathy Kimbel/Ken Woehl, Tumwater, Washington, (360) 902-4739/902-4775; and Enforcement: Doug Mathers, Tumwater, Washington, (360) 902-4750.

Name of Proponent: Department of Labor and Industries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The department is proposing changes to the general reporting rules and classification descriptions as contained in the workers' compensation classification plan. The purpose of this rule proposal is to provide refinements to the reporting rules and classification definitions for greater clarification and ease of understanding by the drywall industry. Amenda-

tory changes to these rules will reduce the amount of litigation resulting from issues regarding recordkeeping and premium assessments by drywall businesses.

This includes amending one general rule, and amending four classification definitions applicable to chapter 296-17 WAC for workers' compensation insurance underwritten by the Department of Labor and Industries.

Proposal Changes the Following Existing Rules: This proposal amends WAC 296-17-35203 Special reporting instructions, 296-17-52140 Classification 0540 Wallboard installation—Discounted rate, 296-17-52141 Classification 0541 Wallboard taping—Discounted rate, 296-17-52150 Classification 0550 Wallboard installation—Nondiscounted rate, and 296-17-52151 Classification 0551 Wallboard taping—Nondiscounted rate.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Because the proposed drywall rule making is primarily clarifying in nature, the department is therefore exempt from preparation of a small business economic impact statement and cost benefit analysis.

RCW 34.05.328 does not apply to this rule adoption. The proposed rule changes will clarify the drywall reporting rules and classification definitions and are not significant rule changes.

Hearing Location: Tumwater Labor and Industries Office, 7273 Linderson Way S.W., Room S119, Tumwater, WA 98504-4851, on February 27, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Information and Assistance by February 27, 2002, TDD (360) 902-5797.

Submit Written Comments to: Department of Labor and Industries, Douglas Connell, Assistant Director for Insurance Services, P.O. Box 4100, Olympia, WA 98504-4100, or e-mail to GUNT235@LNI.WA.GOV, or fax (360) 902-4729, by February 27, 2002.

Date of Intended Adoption: March 20, 2002.

January 23, 2002

Gary Moore

Director

AMENDATORY SECTION (Amending WSR 01-23-059, filed 11/20/01, effective 1/1/02)

WAC 296-17-35203 Special reporting instruction. (1) Professional and semiprofessional athletic teams. Athletes assigned to a Washington-domiciled sports team are mandatorily covered by Washington industrial insurance: Provided, That a professional athlete who is under contract with a parent team domiciled outside of the state of Washington while assigned to a team domiciled within Washington is subject to mandatory coverage by Washington industrial insurance unless the player and employer (parent team) have agreed in writing as to which state shall provide coverage in accordance with RCW 51.12.120(5).

The following rules shall apply to the written agreement:

(a) Agreement must be in writing and signed by the employer and the individual athlete.

(b) Agreement must specify the state that is to provide coverage. The state agreed upon to provide coverage must be a state in which the player's team, during the course of the season, will engage in an athletic event. For example, if the Washington-based team is a part of a league with teams in only Washington, Oregon, and Idaho, the player and the employer can agree to any of those three states to provide coverage. However, they could not agree to have California provide the coverage as this would not qualify as a state in which the player regularly performs assigned duties.

(c) The state agreed upon accepts responsibility for providing coverage and acknowledges such to the department by certified mail.

(d) Agreement and certification by the other state must be received by this department's underwriting section prior to any injury incurred by the athlete.

(e) Agreement will be for one season only commencing with the assigning of the player to a particular team. A separate agreement and certification must be on file for each additional season.

Failure to meet all of these requirements will result in the athlete being considered a Washington worker for premium and benefit purposes until such time as all requirements have been met.

Professional sports teams who are domiciled outside the state of Washington and who participate in sporting events with Washington-domiciled teams are not subject to Washington industrial insurance for their team members while in this state. These out-of-state teams are not considered employers subject to Title 51 on the basis that they are not conducting a business within this state.

(2) **Excluded employments.** Any employer having any person in their employ excluded from industrial insurance whose application for coverage under the elective adoption provisions of RCW 51.12.110 or authority of RCW 51.12.095 or 51.32.030 has been accepted by the director shall report and pay premium on the actual hours worked for each such person who is paid on an hourly, salaried-part time, percentage of profit or piece basis; or one hundred sixty hours per month for any such person paid on a salary basis employed full time. In the event records disclosing actual hours worked are not maintained by the employer for any person paid on an hourly, salaried-part time, percentage of profits or piece basis the worker hours of such person shall be determined by dividing the gross wages of such person by the state minimum wage for the purpose of premium calculation. However, when applying the state minimum wage the maximum number of hours assessed for a month will be one hundred sixty.

(3) **Special trucking industry rules.** The following subsection shall apply to all trucking industry employers as applicable.

(a) **Insurance liability.** Every trucking industry employer operating as an intrastate carrier or a combined intrastate and interstate carrier must insure their workers' compensation insurance liability through the Washington state fund or be self-insured with the state of Washington.

Washington employers operating exclusively in interstate or foreign commerce or any combination of interstate

and foreign commerce must insure their workers' compensation insurance liability for their Washington employees with the Washington state fund, be self-insured with the state of Washington, or provide workers' compensation insurance for their Washington employees under the laws of another state when such other state law provides for such coverage.

Interstate or foreign commerce trucking employers who insure their workers' compensation insurance liability under the laws of another state must provide the department with copies of their current policy and applicable endorsements upon request.

Employers who elect to insure their workers' compensation insurance liability under the laws of another state and who fail to provide updated policy information when requested to do so will be declared an unregistered employer and subject to all the penalties contained in Title 51 RCW.

(b) **Reporting.** Trucking industry employers insuring their workers' compensation insurance liability with the Washington state fund shall keep and preserve all original time records/books including supporting information from drivers' logs for a period of three calendar years plus three months.

Employers are to report actual hours worked, including time spent loading and unloading trucks, for each driver in their employ. For purposes of this section, actual hours worked does not include time spent during lunch or rest periods or overnight lodging.

Failure of employers to keep accurate records of actual hours worked by their employees will result in the department estimating work hours by dividing gross payroll wages by the state minimum wage for each worker for whom records were not kept. However, in no case will the estimated or actual hours to be reported exceed five hundred twenty hours per calendar quarter for each worker.

(c) **Exclusions.** Trucking industry employers meeting all of the following conditions are exempted from mandatory coverage.

(i) Must be engaged exclusively in interstate or foreign commerce.

(ii) Must have elected to cover their Washington workers on a voluntary basis under the Washington state fund and must have elected such coverage in writing on forms provided by the department.

(iii) After having elected coverage, withdrew such coverage in writing to the department on or before January 2, 1987.

If all the conditions set forth in (i), (ii), and (iii) of this subsection have not been met, employers must insure their workers' compensation insurance liability with the Washington state fund or under the laws of another state.

(d) **Definitions.** For purposes of interpretation of RCW 51.12.095(1) and administration of this section, the following terms shall have the meanings given below:

(i) "Agents" means individuals hired to perform services for the interstate or foreign commerce carrier that are intended to be carried out by the individual and not contracted out to others but does not include owner operators as defined in RCW 51.12.095(1).

(ii) "Contacts" means locations at which freight, merchandise, or goods are picked up or dropped off within the boundaries of this state.

(iii) "Doing business" means having any terminals, agents or contacts within the boundaries of this state.

(iv) "Employees" means the same as the term "worker" as contained in RCW 51.08.180.

(v) "Terminals" means a physical location wherein the business activities (operations) of the trucking company are conducted on a routine basis. Terminals will generally include loading or shipping docks, warehouse space, dispatch offices and may also include administrative offices.

(vi) "Washington" shall be used to limit the scope of the term "employees." When used with the term "employees" it will require the following test for benefit purposes (all conditions must be met).

- The individual must be hired in Washington or must have been transferred to Washington; and
- The individual must perform some work in Washington (i.e., driving, loading, or unloading trucks).

(4) Forest, range, or timber land services—Industry rule. Washington law (RCW 51.48.030) requires every employer to make, keep, and preserve records which are adequate to facilitate the determination of premiums (taxes) due to the state for workers' compensation insurance coverage for their covered workers. In the administration of Title 51 RCW, and as it pertains to the forest, range, or timber land services industry, the department of labor and industries has deemed the records and information required in the various subsections of this section to be essential in the determination of premiums (taxes) due to the state fund. The records so specified and required, shall be provided at the time of audit to any representative of the department who has requested them.

Failure to produce these required records within thirty days of the request, or within an agreed upon time period, shall constitute noncompliance of this rule and RCW 51.48.030 and 51.48.040. Employers whose premium computations are made by the department in accordance with (d) of this subsection are barred from questioning, in an appeal before the board of industrial insurance appeals or the courts, the correctness of any assessment by the department on any period for which such records have not been kept, preserved, or produced for inspection as provided by law.

(a) General definitions. For purpose of interpretation of this section, the following terms shall have the meanings given below:

(i) "Actual hours worked" means each workers' composite work period beginning with the starting time of day that the employees' work day commenced, and includes the entire work period, excluding any nonpaid lunch period, and ending with the quitting time each day work was performed by the employee.

(ii) "Work day" shall mean any consecutive twenty-four-hour period.

(b) Employment records. Every employer shall with respect to each worker, make, keep, and preserve original records containing all of the following information for three

full calendar years following the calendar year in which the employment occurred:

- (i) The name of each worker;
 - (ii) The Social Security number of each worker;
 - (iii) The beginning date of employment for each worker and, if applicable, the separation date of employment for each such worker;
 - (iv) The basis upon which wages are paid to each worker;
 - (v) The number of units earned or produced for each worker paid on a piece-work basis;
 - (vi) The risk classification(s) applicable to each worker;
 - (vii) The number of actual hours worked by each worker, unless another basis of computing hours worked is prescribed in WAC 296-17-31021. For purposes of chapter 296-17 WAC, this record must clearly show, by work day, the time of day the employee commenced work, and the time of day work ended;
 - (viii) A summary time record for each worker showing the calendar day or days of the week work was performed and the actual number of hours worked each work day;
 - (ix) In the event a single worker's time is divided between two or more risk classifications, the summary contained in (b)(viii) of this subsection shall be further broken down to show the actual hours worked in each risk classification for the worker;
 - (x) The workers' total gross pay period earnings;
 - (xi) The specific sums withheld from the earnings of each worker, and the purpose of each sum withheld;
 - (xii) The net pay earned by each such worker.
- (c) Business, financial records, and record retention. Every employer is required to keep and preserve all original time records completed by their employees for a three-year period. The three-year period is specified in WAC 296-17-352 as the composite period from the date any such premium became due.

Employers who pay their workers by check are required to keep and preserve a record of all check registers and cancelled checks; and employers who pay their workers by cash are required to keep and preserve records of these cash transactions which provide a detailed record of wages paid to each worker.

(d) Recordkeeping - estimated premium computation. Any employer required by this section to make, keep, and preserve records containing the information as specified in (b) and (c) of this subsection, who fails to make, keep, and preserve such records, shall have premiums calculated as follows:

- (i) Estimated worker hours shall be computed by dividing the gross wages of each worker for whom records were not maintained and preserved, by the state's minimum wage, in effect at the time the wages were paid or would have been paid. However, the maximum number of hours to be assessed under this provision will not exceed five hundred twenty hours for each worker, per quarter for the first audited period. Estimated worker hours computed on all subsequent audits of the same employer that disclose a continued failure to make, keep, or preserve the required payroll and employment records shall be subject to a maximum of seven hundred eighty hours for each worker, per quarter.

(ii) In the event an employer also has failed to make, keep, and preserve the records containing payroll information and wages paid to each worker, estimated average wages for each worker for whom a payroll and wage record was not maintained will be determined as follows: The employer's total gross income for the audit period (earned, received, or anticipated) shall be reduced by thirty-five percent to arrive at "total estimated wages." Total estimated wages will then be divided by the number of employees for whom a record of actual hours worked was not made, kept, or preserved to arrive at an "estimated average wage" per worker. Estimated hours for each worker will then be computed by dividing the estimated average wage by the state's minimum wage in effect at the time the wages were paid or would have been paid as described in (d)(i) of this subsection.

(e) Reporting requirements and premium payments.

(i) Every employer who is awarded a forest, range, or timber land services contract must report the contract to the department promptly when it is awarded, and prior to any work being commenced, except as provided in (e)(iii) of this subsection. Employers reporting under the provisions of (e)(iii) of this subsection shall submit the informational report with their quarterly report of premium. The report shall include the following information:

(I) The employers' unified business identification account number (UBI).

(II) Identification of the landowner, firm, or primary contractor who awarded the contract, including the name, address, and phone number of a contact person.

(III) The total contract award.

(IV) Description of the forest, range, or timber land services work to be performed under terms of the contract.

(V) Physical location/site where the work will be performed including legal description.

(VI) Number of acres covered by the contract.

(VII) Dates during which the work will be performed.

(VIII) Estimated payroll and hours to be worked by employees in performance of the contract.

(ii) Upon completion of every contract issued by a landowner or firm that exceeds a total of ten thousand dollars, the contractor primarily responsible for the overall project shall submit in addition to the required informational report described in (e)(i) of this subsection, report the payroll and hours worked under the contract, and payment for required industrial insurance premiums. In the event that the contracted work is not completed within a calendar quarter, interim quarterly reports and premium payments are required for each contract for all work done during the calendar quarter. The first such report and payment is due at the end of the first calendar quarter in which the contract work is begun. Additional interim reports and payments will be submitted each quarter thereafter until the contract is completed. This will be consistent with the quarterly reporting cycle used by other employers. Premiums for a calendar quarter, whether reported or not, shall become due and delinquent on the day immediately following the last day of the month following the calendar quarter.

(iii) A contractor may group contracts issued by a landowner, firm, or other contractor that total less than ten thousand dollars together and submit a combined quarterly report

of hours, payroll, and the required premium payment in the same manner and periods as nonforestation, range, or timber land services employers.

(f) Out-of-state employers. Forest, range, or timber land services contractors domiciled outside of Washington state must report on a contract basis regardless of contract size for all forest, range, or timber land services work done in Washington state. Out-of-state employers will not be permitted to have an active Washington state industrial insurance account for reporting forest, range, or timber land services work in the absence of an active Washington forest, range, or timber land services contract.

(g) Work done by subcontract. Any firm primarily responsible for work to be performed under the terms of a forest, range, or timber land services contract, that subcontracts out any work under a forest, range, or timber land services contract must send written notification to the department prior to any work being done by the subcontractor. This notification must include the name, address, Social Security number, farm labor contractor number, (UBI) of each subcontractor, and the amount and description of contract work to be done by subcontract.

(h) Forest, range, or timber land services contract release - verification of hours, payroll, and premium. The department may verify reporting of contractors by way of an on-site visit to an employers' work site. This on-site visit may include close monitoring of employees and employee work hours. Upon receipt of a premium report for a finished contract, the department may conduct an audit of the firm's payroll, employment, and financial records to validate reporting. The department will notify the contractor, and the entity that awarded the contract, of the status of the contractors' account immediately after verification. The landowner, firm, or contractors' premium liability will not be released until the final report for the contract from the primary contractor and any subcontractors has been received and verified by the department.

(i) Premium liability - work done by contract. Washington law (RCW 51.12.070) places the responsibility for industrial insurance premium payments primarily and directly upon the person, firm, or corporation who lets a contract for all covered employment involved in the fulfillment of the contract terms. Any such person, firm, or corporation letting a contract is authorized to collect from the contractor the full amount payable in premiums. The contractor is in turn authorized to collect premiums from any subcontractor they may employ his or her proportionate amount of the premium payment.

To eliminate premium liability for work done by contract permitted by Title 51 RCW, any person, firm, or corporation who lets a contract for forest, range, or timber land services work must submit a copy of the contract they have let to the department and verify that all premiums due under the contract have been paid.

Each contract submitted to the department must include within its body, or on a separate addendum, all of the following items:

(I) The name of the contractor who has been engaged to perform the work;

(II) The contractor's UBI number;

- (III) The contractor's farm labor contractor number;
- (IV) The total contract award;
- (V) The date the work is to be commenced; a description of the work to be performed including any pertinent acreage information;
- (VI) Location where the work is to be performed;
- (VII) A contact name and phone number of the person, firm, or corporation who let the contract;
- (VIII) The total estimated wages to be paid by the contractor and any subcontractors;
- (IX) The amount to be subcontracted out if such subcontracting is permitted under the terms of the contract;
- (X) The total estimated number of worker hours anticipated by the contractor and his/her subcontractors in the fulfillment of the contract terms;
- (j) Reports to be mailed to the department. All contracts, reports, and information required by this section are to be sent to:

The Department of Labor and Industries
 Reforestation Team 8
 P.O. Box 44168
 Tumwater, Washington 98504-4168

(k) Rule applicability. If any portion of this section is declared invalid, only that portion is repealed. The balance of the section shall remain in effect.

(5) Logging and/or tree thinning—Mechanized operations—Industry rule. The following subsection shall apply to all employers assigned to report worker hours in risk classification 5005, WAC 296-17-66003.

(a) Every employer having operations subject to risk classification 5005 "logging and/or tree thinning - mechanized operations" shall have their operations surveyed by labor and industries insurance services staff prior to the assignment of risk classification 5005 to their account. Annual surveys may be required after the initial survey to retain the risk classification assignment.

(b) Every employer as a prerequisite of being assigned risk classification 5005 and having exposure (work hours) which is reportable under other risk classifications assigned to the employer shall be required to establish a separate subaccount for the purpose of reporting exposure (work hours) and paying premiums under this risk classification (5005). Except as otherwise provided for in this rule, only exposure (work hours) applicable to work covered by risk classification 5005 shall be reported in this subaccount. In the event that the employer's only other reportable exposure (work hours) is subject to one of the standard exception risk classifications, or the shop or yard risk classification then all exposure (work hours) will be reported under a single main account.

(c) Every employer assigned to report exposure (work hours) in risk classification 5005 shall supply an addendum report with their quarterly premium report which lists the name of each employee reported under this classification during the quarter, the Social Security number of such worker, the piece or pieces of equipment the employee operated during the quarter, the number of hours worked by the employee

during the quarter, and the wages earned by the employee during the quarter.

(6) Special drywall industry rule.

~~((a) Why have we changed the way you pay premiums? Under Washington law (RCW 51.16.035), we are given the authority to establish how workers' compensation insurance rates are computed. For most industries, workers' compensation insurance rates are based on hours worked by employees. While the worker hour system works well for most industries, this method of paying premium can be unfair when a large segment of workers within an industry are not paid an hourly wage. The drywall industry is one in which many workers are paid on the basis of material installed and/or finished, (piece work), not the hours they work. To help remedy the problems caused by using work hours as the basis of how you pay premiums, and to provide greater fairness to employers engaged in drywall work, the premium for classifications 0540, 0541, 0550, and 0551 is based on material (square feet).~~

~~(b) How can I qualify for a discounted rate? For each drywall industry classification, we have established a second classification covering the same activity. The second classification carries a discounted rate. To qualify for a discounted classification and rate you are required to meet all of the following conditions:~~

~~(i) Prior to the end of the quarter that you want the discounted classifications and rates to be applied to your business, you (an owner/officer) must attend two workshops that we offer. For example, if you want the discounted classifications and rates to apply to your business for the third calendar quarter (July 1 through September 30), you (an owner/officer) must attend the two workshops by September 30. One workshop covers claims and risk management practices; the other workshop covers premium reporting and recordkeeping. The two workshops may be offered together or separately. Be sure to sign in so that you receive credit for attending the workshops.~~

~~(ii) You (an owner/officer) must provide us with a signed and completed voluntary release of information form that we may provide to you at the workshops. If we audit your account we will use this release form to obtain material and supply/purchase sales records from the material supply dealer(s) you use. This will aid us as we verify the information you supply us on your premium and supplemental reports. If we need to verify the information that you supplied us, we will send you written notice before we contact your material supply dealer(s). We must receive this release form prior to the end of the quarter in which you want the discounted classifications and rates to become effective. For example, if you want the discounted classifications and rates to apply to your business for the third calendar quarter (July 1 through September 30), we must receive your signed and completed release of information form by September 30. You can complete the voluntary release form at the workshop and give it to our representative at the workshop or mail it to:~~

Labor and Industries
 Employer Services—Drywall Manager
 P.O. Box 44166
 Olympia, Washington 98504-4166

(iii) You must submit complete and accurate premium reports when they are due and be current with all premium reports and payments. If you owe us money (premiums) for any quarter, we will not allow you to report in the discounted classifications until your premium obligations have been paid. This requirement applies to any classification assigned to your business and for any exposure (hours, square feet, etc.) which occurs. Businesses requesting the use of the discounted classifications while in field audit status shall not be assigned the discounted classifications and rates until the audit process is complete and all criteria for this rule have been met.

(iv) You must provide us with a supplemental quarterly report which shows by employee the employee's name and Social Security number, the wages you paid them during the quarter, the basis for how they are paid, (piece rate, commission, hourly, etc.) their rate of pay per unit/hour, and a notation as to whether they are an installer, finisher, scraper, painter, etc. This report is to be attached to and submitted with your quarterly premium report.

(v) For any work which you subcontract to others, you must maintain the records described in WAC 296 17 31013 which requires you to keep certain information about the subcontractors you use and materials you may have supplied to the subcontractors.

(vi) You must keep and retain the payroll and employment records described in WAC 296 17 35201.

If you do not meet all of the above conditions, we will not assign the discounted rates to your business and you will be required to pay premiums in the nondiscounted classification(s):

(c) ~~Can I be disqualified from using the discounted rates?~~ Yes, as opposed to failing to qualify because you did not meet the conditions of (b) of this subsection, your business will be disqualified from using the discounted premium rates if:

- You do not file premium reports on time;
- You fail to pay premiums on time;
- You under report or misclassify the work performed by your employees; or
- You fail to meet any other condition set forth in this rule.

(d) ~~How long will I be disqualified from using the discounted classifications?~~ If the drywall underwriter discovers your business has failed to meet the conditions as required in this rule, your business will need to comply to retain using the discounted classifications. If your business does not comply timely, your business may be referred for an audit. If, as a result of an audit, your business is in none compliance, your business will be disqualified from using the discounted classifications for three years (thirty six months) from the period of last none compliance. If your business does comply, we will schedule your business to be audited over the next several years to ensure continued compliance.

(e) ~~I have several businesses. If one of my businesses is disqualified from using the discounted rates will that affect my other businesses?~~ Yes, if you have ownership interest in a business which has been disqualified from using the discounted rates, and you also have ownership interest in

other construction businesses which have separate industrial insurance accounts or subaccounts, all businesses in which you have ownership interest will be disqualified from using the discounted rates. This includes a business which you own or owned that is in bankruptcy status and for which you have not entered into a payment agreement, if you owe us any money; or money that you owe us which we wrote off as an uncollectible debt.

(f) ~~If I make a mistake in how I reported to you, should I correct the error?~~ Yes, you should send in a revised report(s) with an explanation of the error you are trying to correct to the drywall underwriter. If we audit your business, and we determine that you have under reported exposure in any classification assigned to your business, all exposure which you reported in the discounted classifications for the audit period will be reclassified to the nondiscounted classifications.

(g) ~~If I disagree with an audit or other decision can I still use the discounted rates while we are resolving the issue?~~ Yes, if you are involved in a dispute with us over the status of an independent contractor, the issue being whether an individual is a covered worker; the proper classification of work your employees performed; or under reporting; you may qualify for the discounted classifications by paying the disputed amount while the issue is under dispute. In the event the issue is resolved in your favor we will refund any moneys which you paid which were disputed. We will not pay interest on the refunded amount. If you do not pay the audit balance or disputed amount when requested or do not post an equivalent bond, you will not be permitted to use any of the discounted classifications.

(h) ~~I am the owner of the business, and I do some of the work myself. Can I deduct the work I do from the total square feet to be reported to you?~~ Yes, as an owner of the business you can deduct the amount of work that you did from the total square feet which you are going to report to us:

(i) ~~How do I calculate and report this deduction to you?~~ To claim this deduction you must send us a report which shows by job, project, site or location the total amount of material that was installed or finished at that job, project, site or location; the amount of material which you, the owner, installed and/or finished at the job, project, site or location; the hours it took you to install and/or finish the material you are claiming deduction for; the total material installed and/or finished by subcontractors (including the subcontractor's legal name and Unified Business Identifier (UBI) at the job, project, site or location); the total material installed and/or finished by employees at the job, project, site or location; and the hours the employees worked by job, project, site or location. This report must accompany the quarterly report in which you are claiming a deduction. If there are several owners, you must supply this information for each owner for whom you wish to claim a deduction.)

(a) What is the unit of exposure for drywall reporting? Your premiums for workers installing and finishing drywall (reportable in risk classifications 0540, 0541, 0550,

and 0551) are based on the amount of material installed and finished, not the number of hours worked.

The amount of material installed equals the amount of material purchased or taken from inventory for a job. No deduction can be made for material scrapped (debris). A deduction is allowed for material returned to the supplier or inventory.

The amount of material finished for a job equals the amount of material installed. No deduction can be made for a portion of the job that is not finished (base layer of double-board application or unfinished rooms).

Example: Drywall installation firm purchases 96 4' x 8' sheets of material for a job which includes some double-wall installation. The firm hangs all or parts of 92 sheets, and returns 4 sheets to the supplier for credit. Drywall finishing firm tapes, primes and textures the same job. Both firms should report 2,944 square feet (4 x 8 x 92) for the job.

(b) I do some of the work myself. Can I deduct material I as an owner install or finish? Yes. Owners (sole proprietors, partners, and corporate officers) who have not elected coverage may deduct material they install or finish.

When you as an owner install (including scrap) or finish (including tape and prime or texture) only part of a job, you may deduct an amount of material proportional to the time you worked on the job, considering the total time you and your workers spent on the job.

To deduct material installed or finished by owners, you must report to the department by job, project, site or location the amount of material you are deducting for this reason. You must file this report at the same time you file your quarterly report:

$$\text{Total owners hours} \div (\text{owners hours} + \text{workers hours}) = \text{\% of owner discount.}$$

$$\text{\% of owner discount} \times (\text{total footage of job} - \text{subcontracted footage, if any}) = \text{Total owner deduction of footage.}$$

(c) Can I deduct material installed or finished by subcontractors? You may deduct material installed or taped by subcontractors you are not required to report as your workers. You may not deduct for material only scrapped or primed and textured by subcontractors.

To deduct material installed or taped by subcontractors, you must report to the department by job, project, site or location the amount of material being deducted. You must file this report at the same time you file your quarterly report. You must have and maintain business records that support the number of square feet worked by the subcontractor.

(d) I understand there are discounted rates available for the drywall industry. How do I qualify for them? To qualify for discounted drywall installation and finishing rates, you must:

(i) Have an owner attend two workshops the department offers (one workshop covers claims and risk management, the other covers premium reporting and recordkeeping);

(ii) Provide the department with a voluntary release authorizing the department to contact material suppliers directly about the firm's purchases;

(iii) Have and keep all your industrial insurance accounts in good standing (including the accounts of other businesses in which you have an ownership interest), which includes fully and accurately reporting and paying premiums as they come due, including reporting material deducted as owner or subcontractor work;

(iv) Provide the department with a supplemental report (filed with the firm's quarterly report) showing by employee the employee's name, the wages paid them during the quarter, how they are paid (piece rate, hourly, etc.), their rate of pay, and what work they performed (installation, scrapping, taping, priming/texturing); and

(v) Maintain accurate records about work you subcontracted to others and materials provided to subcontractors (as required by WAC 296-17-31013), and about payroll and employment (as required by WAC 296-17-35201).

The discounted rates will be in effect beginning with the first quarter your business meets all the requirements for the discounted rates.

Note: If you are being audited by the department while your application for the discounted classifications is pending, the department will not make a final decision regarding your rates until the audit is completed.

(e) Can I be disqualified from using the discounted rates? Yes. You can be disqualified from using the discounted rates for three years if you:

(i) Do not file all reports, including supplemental reports, when due;

(ii) Do not pay premiums on time;

(iii) Underreport the amount of premium due; or

(iv) Fail to maintain the requirements for qualifying for the discounted rates.

Disqualification takes effect when a criterion for disqualification exists.

Example: A field audit in 2002 reveals that the drywall installation firm underreported the amount of premium due in the second quarter of 2001. The firm will be disqualified from the discounted rates beginning with the second quarter of 2001, and the premiums it owed for that quarter and subsequent quarters for three years will be calculated using the nondiscounted rates.

If the drywall underwriter learns that your business has failed to meet the conditions as required in this rule, your business will need to comply to retain using the discounted classifications. If your business does not comply promptly, the drywall underwriter may refer your business for an audit.

If, as a result of an audit, the department determines your business has not complied with the conditions in this rule, your business will be disqualified from using the discounted classifications for three years (thirty-six months) from the period of last noncompliance.

(f) If I discover I have made an error in reporting or paying premium, what should I do? If you discover you have made a mistake in reporting or paying premium, you should contact the department and correct the mistake. Firms not being audited by the department who find errors in their reporting and paying premiums, and who voluntarily report their errors and pay any required premiums, penalties and interest promptly, will not be disqualified from using the dis-

counted rates unless the department determines they acted in bad faith.

AMENDATORY SECTION (Amending WSR 01-23-059, filed 11/20/01, effective 1/1/02)

WAC 296-17-52140 Classification 0540.

0540-00 Wallboard installation, including scrapping - discounted rate (to be assigned only by the drywall underwriter)

Applies to contractors engaged in the installation or repair of wallboard. This classification includes the installation of wallboard, drywall, or sheetrock in all types of residential or commercial buildings or structures. The process consists of cutting wallboard with a utility knife, hacksaw, or power saw to the desired size and then butting material into place and nailing or screw fastening to wood or metal wall studs. Electrical box, window, or door openings are cut out where needed. Installation may require the use of scaffolding, ladders, specialty lifts, or stilts when working at heights, including the use of T holders or hydraulic lifts to hold material being installed on ceilings. This classification also includes wallboard scrapping (picking up and discarding unused portions of wallboard remnants or scraps) at the construction site when performed by employees of the wallboard contractor.

This classification excludes delivery of materials to the construction site by material dealer employees which is to be reported separately in the applicable delivery classification; delivery and stocking of materials to the construction site when performed by employees of the wallboard contractor which is to be reported separately in classification 1101; wallboard taping (including priming and texturing when performed by employees of the wallboard contractor) which is to be reported separately in classification 0541 or 0551; wallboard scrapping by nonwallboard contractor employees which is to be reported separately in the applicable construction debris cleanup classification; plastering, stuccoing or lathing work which is to be reported separately in classification 0303; and the framing of nonbearing walls when performed by the drywall contractor which is to be reported separately in classification 0516.

~~((Special note: The basis of premium for this classification is material installed (square feet). The amount used to determine premium calculation for material installed shall be the same amount used for premium calculation of material finished for use in classification 0541 or 0551. The amount of wallboard purchased for each job, project, site or location shall be equal to the amount of material installed or finished. For contractors to be assigned and continue to report in this classification, their account must remain in good standing and conform to the conditions specified in the special drywall industry rule.))~~

AMENDATORY SECTION (Amending WSR 01-23-059, filed 11/20/01, effective 1/1/02)

WAC 296-17-52141 Classification 0541.

0541-00 Wallboard taping, including texturing and priming - discounted rate (to be assigned only by the drywall underwriter)

Applies to contractors engaged in taping wallboard in residential or commercial buildings or structures. The process of taping occurs after wallboard, drywall, or sheetrock has been installed and involves taping the seams, and spreading joint compound over the seams and nail or screw heads. When dry, the seams are sanded to remove any rough edges. This classification includes the following activities when performed by employees of a wallboard contractor and part of the taping process which includes wallboard texturing (a putty-like material that is sprayed over the prepared wallboard in a clump-like application and smoothed with a trowel or putty knife), and wallboard priming (the application of an undercoating that may be applied either directly to the wallboard or after it has been textured). This classification also includes incidental painting when performed by employees of a wallboard contractor and part of the taping process.

This classification excludes wallboard installation which is to be reported separately in classification 0540 or 0550; wallboard priming and texturing not performed by employees of the wallboard contractor and part of the taping process which is to be reported separately in classification 0521; interior painting which is to be reported separately in classification 0521; and wallboard scrapping by nonmaterial dealer employees which is to be reported separately in classification 0540 or 0550.

~~((Special note: The basis of premium for this classification is material finished (square feet). The amount used to determine premium calculation for material finished shall be the same amount used for premium calculation of material installed for use in classification 0540 or 0550. The amount of wallboard purchased for each job, project, site or location shall be equal to the amount of material installed or finished. For contractors to be assigned, and continue to report in this classification, their account must remain in good standing and conform to the conditions specified in the special drywall industry rule.))~~

AMENDATORY SECTION (Amending WSR 01-23-059, filed 11/20/01, effective 1/1/02)

WAC 296-17-52150 Classification 0550.

0550-00 Wallboard installation, including scrapping - nondiscounted rate (to be assigned only by the drywall underwriter)

Applies to contractors engaged in the installation or repair of wallboard. This classification includes the installation of wallboard, drywall, or sheetrock in all types of residential or commercial buildings or structures. The process consists of cutting wallboard with a utility knife, hacksaw, or power saw to the desired size and then butting material into

place and nailing or screw fastening to wood or metal wall studs. Electrical box, window, or door openings are cut out where needed. Installation may require the use of scaffolding, ladders, specialty lifts, or stilts when working at heights, including the use of T holders or hydraulic lifts to hold material being installed on ceilings. This classification also includes wallboard scrapping (picking up and discarding unused portions of wallboard remnants or scraps) at the construction site when performed by employees of the wallboard contractor.

This classification excludes delivery of materials to the construction site by material dealer employees which is to be reported separately in the applicable delivery classification; delivery and stocking of materials to the construction site when performed by employees of the wallboard contractor which is to be reported separately in classification 1101; wallboard taping (including priming and texturing when performed by employees of the wallboard contractor) which is to be reported separately in classification 0541 or 0551; wallboard scrapping by nonwallboard contractor employees which is to be reported separately in the applicable construction debris cleanup classification; plastering, stuccoing or lathing work which is to be reported separately in classification 0303; and the framing of nonbearing walls when performed by the drywall contractor which is to be reported separately in classification 0516.

~~((Special note: The basis of premium for this classification is material installed (square feet). The amount used to determine premium calculation for material installed shall be the same amount used for premium calculation of material finished for use in classification 0541 or 0551. The amount of wallboard purchased for each job, project, site or location shall be equal to the amount of material installed or finished. For contractors to be assigned and continue to report in this classification, their account must remain in good standing and conform to the conditions specified in the special drywall industry rule.))~~

AMENDATORY SECTION (Amending WSR 01-23-059, filed 11/20/01, effective 1/1/02)

WAC 296-17-52151 Classification 0551.

0551-00 Wallboard taping, including texturing and priming - nondiscounted rate (to be assigned only by the drywall underwriter)

Applies to contractors engaged in taping wallboard in residential or commercial buildings or structures. The process of taping occurs after wallboard, drywall, or sheetrock has been installed and involves taping the seams, and spreading joint compound over the seams and nail or screw heads. When dry, the seams are sanded to remove any rough edges. This classification includes the following activities when performed by employees of a wallboard contractor and part of the taping process which includes wallboard texturing (a putty-like material that is sprayed over the prepared wallboard in a clump-like application and smoothed with a trowel or putty knife), and wallboard priming (the application of an undercoating that may be applied either directly to the wall-

board or after it has been textured). This classification also includes incidental painting when performed by employees of a wallboard contractor and part of the taping process.

This classification excludes wallboard installation which is to be reported separately in classification 0540 or 0550; wallboard priming and texturing not performed by employees of the wallboard contractor and part of the taping process which is to be reported separately in classification 0521; interior painting which is to be reported separately in classification 0521; and wallboard scrapping by nonmaterial dealer employees which is to be reported separately in classification 0540 or 0550.

~~((Special note: The basis of premium for this classification is material finished (square feet). The amount used to determine premium calculation for material finished shall be the same amount used for premium calculation of material installed for use in classification 0540 or 0550. The amount of wallboard purchased for each job, project, site or location shall be equal to the amount of material installed or finished. For contractors to be assigned, and continue to report in this classification, their account must remain in good standing and conform to the conditions specified in the special drywall industry rule.))~~

WSR 02-03-130

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed January 23, 2002, 10:26 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-21-094.

Title of Rule: WAC 308-17-150 Private investigative agency, private investigator, and armed private investigator fees.

Purpose: The purpose of the rule change is to increase fees pursuant to the requirements of RCW 43.24.086.

Statutory Authority for Adoption: RCW 43.24.086 and chapter 18.165 RCW.

Statute Being Implemented: Chapter 18.165 RCW.

Summary: To increase fees in WAC 308-17-150.

Reasons Supporting Proposal: The reason for the fee increase is that RCW 43.24.086 requires that regulatory program raise sufficient revenue to be self-supporting. Pursuant to RCW 43.135.055, the Department of Licensing may increase fees in excess of the fiscal growth factor during the 2001-2003 biennium, if necessary, to fully fund the costs of the licensing program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mary Haglund, Olympia, (360) 664-6624.

Name of Proponent: Department of Licensing, Private Investigator Program, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 308-17-150 Private investigative agency, private investigator, and armed private investigator fees, the

proposed rules would increase licensing fees so the program will be able to fully fund the costs of the licensing program as required by RCW 43.135.055.

Proposal Changes the Following Existing Rules: See below.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule regarding fee increases is pursuant to legislative approval. The amendatory section of recordkeeping does not impose economic impact, as it is minor changes.

RCW 34.05.328 applies to this rule adoption. The proposed amended rules are following all rule-making requirements.

Hearing Location: General Administration Building, 210 11th Avenue S.W., First Floor Auditorium, Olympia, WA 98504, on March 4, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Mary Haglund by February 22, 2002, TDD (360) 664-0116, or (360) 664-6611.

Submit Written Comments to: Department of Licensing, Private Investigator Program, P.O. Box 9649, Olympia, WA 98507-9649, fax (360) 570-7888, by February 22, 2002.

Date of Intended Adoption: March 6, 2002.

January 18, 2002

Alan E. Rathbun

Assistant Director

AMENDATORY SECTION (Amending WSR 97-17-051, filed 8/15/97)

WAC 308-17-150 Private investigative agency, private investigator, and armed private investigator fees.

TITLE OF FEE	PROGRAM FEES
Private Investigative Agency:	
Application/Examination	\$((350.00)) <u>550.00</u>
Reexamination	25.00
License Renewal	((275.00)) <u>450.00</u>
Late Renewal with Penalty	((350.00)) <u>600.00</u>
Certification	25.00
Private Investigator:	
Original License	\$((75.00)) <u>150.00</u>
Transfer Fee	25.00
Certified Trainer Exam/Reexamine	25.00
Certified Trainer Renewal	15.00
License Renewal	((75.00)) <u>150.00</u>
Late Renewal with Penalty	((100.00)) <u>200.00</u>
Certification	25.00
Armed Private Investigator:	
Original License	\$((50.00)) <u>100.00</u>
Transfer Fee	25.00
Certified Trainer Exam/Reexamine	25.00

TITLE OF FEE	PROGRAM FEES
Certified Trainer Renewal	15.00
License Renewal	((75.00)) <u>150.00</u>
Late Renewal with Penalty	((100.00)) <u>250.00</u>
Certification	25.00
<u>Change of Unarmed Qualified Agent</u>	<u>\$150.00</u>
<u>Change of Armed Qualified Agent</u>	<u>100.00</u>

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.

WSR 02-03-131

PROPOSED RULES

DEPARTMENT OF COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT

[Filed January 23, 2002, 10:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-22-010.

Title of Rule: Child care facility fund, WAC 130-14-010 - 130-14-070.

Purpose: To increase availability of capital for child care facility development and expansion of child care capacity in Washington (original intent was to increase supply of employer-supported child care facilities in Washington).

Statutory Authority for Adoption: RCW 43.31.504.

Statute Being Implemented: RCW 43.31.502 - 43.31.514.

Summary: The proposed changes to WAC 130-14-010, 130-14-030, 130-14-050, and 130-14-060 would expand eligibility for use of the child care revolving loan fund to include all nonsectarian child care businesses. This change will increase available low-interest capital for child care businesses in Washington state. Other amendments clarify uses of the fund and that loan origination fees may be charged to applicants.

Reasons Supporting Proposal: The proposed changes to WAC 130-14-010, 130-14-030, 130-14-050 and 130-14-060 will open up eligibility to the child care facility fund to all child care businesses needing capital to build or expand child care facilities. This will result in an increase in available capital funds for the purpose of increasing the availability of child care.

Name of Agency Personnel Responsible for Drafting and Implementation: Gail Gosney, Community, Trade and Economic Development, 128 10th Avenue S.W., Olympia, WA 98504, (360) 725-4034; and Enforcement: Gail Gosney and Tom Stilz, Community, Trade and Economic Development, 128 10th Avenue S.W., Olympia, WA 98504, (360) 725-4034.

PROPOSED

Name of Proponent: Child Care Facility Fund Advisory Committee, Department of Community, Trade and Economic Development, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 130-14-010 - 130-14-070 establishes the eligibility guidelines for applicants, the purposes for which funds can be loaned or granted, the maximum amount of funds to be lent or granted and the interest rate to be charged on the loans. The WAC further defines the reporting requirements for successful applicants and the maximum terms for loans.

Proposal Changes the Following Existing Rules: WAC 130-14-010, allows businesses, organizations or persons whose primary purpose is to provide child care services to be eligible applicants to the child care facility fund.

WAC 130-14-030, adds provision that applicants may be charged a one-time loan origination fee.

WAC 130-14-050, removes requirement that applicants to the child care facility fund must be restricted to private sector businesses or employer.

WAC 130-14-060, adds purchase of land for buildings or child care facilities as an eligible use of child care facility fund loans or grants.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed changes to WAC 130-14-010, 130-14-030, 130-14-050, and 130-14-060 are exempt from the requirement for a small business economic statement because they are filed under rule-making procedures RCW 34.05.310 (4)(e) as WAC 130-14-010 - 130-14-070 were originally adopted in order to implement RCW 43.31.504.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Highline Community College, Building 3, Room 102, 2400 South 240th Street, Des Moines, WA, on February 26, 2002, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Gail Gosney by February 25, 2002, TDD (360) 753-7427.

Submit Written Comments to: Gail Gosney, Small Business Resources Unit, Department of Community, Trade and Economic Development, 10th Avenue S.W., Olympia, WA 98504, (360) 725-4034, gailg@cted.wa.gov, fax (360) 586-0783, by February 27, 2002.

Date of Intended Adoption: February 27, 2002.

January 23, 2002

Martha Choe
Director

AMENDATORY SECTION (Amending WSR 92-02-015, filed 12/23/91)

WAC 130-14-010 Definitions. As used in this chapter:

Capital improvements means improvements to real property or improvements or acquisition of personal property which is depreciable under the Federal Tax Code.

Existing child care facility means that facility which holds a current license for a child care facility from the

department of social and health services (DSHS) at the time of application to the child care facility fund.

New child care facility means that facility that does not hold a current license for a child care facility from the department of social and health services (DSHS) at the time of application to the child care facility fund.

Applicant means either:

(1) One or more businesses seeking to establish or cause to be established a child care facility primarily for use of the children of its employees; or

(2) A child care facility that has a written contract with one or more private sector businesses to provide child care for the employees of that business.

(3) A business, organization or person whose primary purpose is to provide child care services. Sectarian organizations are not eligible organizations.

AMENDATORY SECTION (Amending WSR 92-02-015, filed 12/23/91)

WAC 130-14-030 Direct loans. (1) Direct loans may be awarded to the applicant on a one-time-only basis and shall not exceed a maximum of one hundred thousand dollars.

(2) Repayment of the direct loan shall be made to the child care facility revolving fund.

(3) Interest rates for a direct loan may be up to prime rate, negotiated on a case-by-case basis, fixed for the life of the loan. Loan terms shall be negotiated on a case-by-case basis.

(4) Applicants must provide sufficient collateral for funds loaned under this section, as determined by the child care facility fund committee.

(5) Applicants may be charged a one-time loan origination fee.

AMENDATORY SECTION (Amending WSR 92-02-015, filed 12/23/91)

WAC 130-14-050 Project eligibility. ~~((1))~~ To receive child care facility funds under these provisions, an applicant must: ~~((provide on-site or off-site child care.~~

~~(2) The business applicant must:~~

~~(a) Enter into a written contract with an existing or a newly licensed child care provider offering expanded child care services either on-site or off-site; or~~

~~(b) Operate a child care facility for their own employees' children.)~~

(1) ~~((3 An applicant must))~~ Include with ~~((its))~~ their application a copy of the required ~~((written contract))~~ state license for child care services.

(2) ~~((4 The applicant must s))~~ Submit a plan that includes a description of:

(a) The need for a new or improved child care facility in the area to be served by the applicant;

(b) The steps to be taken to serve a reasonable number of:

(i) Handicapped children;

(ii) Sick children;

(iii) Infants;

(iv) Children requiring nighttime or weekend care;

(v) Children whose costs of care are subsidized by the government;

(c) Why financial assistance from the state is needed to start or improve the child care facility;

(d) How the guaranteed loan, direct loan, or grant will be used, and how such use will meet the described need;

(e) The child care services to be available at the facility and the capacity of the applicant to provide these services;

(f) The financial status of the applicant, including other resources available to the applicant which will ensure the viability of the facility and the availability of its described services.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 90-17-054, filed 8/14/90)

WAC 130-14-060 Use of funds. Eligible activities and uses of child care facility funds include:

(1) Capital improvements for new or existing licensed child care facilities;

(2) Operating capital for new facilities which are available for a period limited to the first three months of operation.

(3) Purchase of land or buildings which enables a child care business to increase the number license child care slots.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 02-03-133
PROPOSED RULES
SECRETARY OF STATE
[Filed January 23, 2002, 11:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-17-025.

Title of Rule: Absentee voting and vote-by-mail elections.

Purpose: To make changes in existing rules as a result of legislation passed by the legislature in 2001; to eliminate the reports required for vote-by-mail elections.

Statutory Authority for Adoption: RCW 29.04.210, 29.36.150.

Statute Being Implemented: Chapter 241, Laws of 2001.

Summary: SB 5275 made extensive changes in absentee ballots, mail ballots, and vote-by-mail elections. These proposed rules address the legislative changes made by SB 5275. Additionally, the requirement for county auditors to send vote-by-mail election reports is being repealed. These rule changes were adopted in August 2001 as emergency rules and are now to be adopted permanently.

Name of Agency Personnel Responsible for Drafting and Implementation: Sheryl Moss, Office of the Secretary of State, (360) 902-4146.

Name of Proponent: Office of the Secretary of State, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rules affected by the proposed changes regulate the absentee ballot, vote-by-mail election, and mail ballot precinct processes. The passage of SB 5275 created many sections that were no longer in compliance with state law. These changes adjust the Washington Administrative Code to comply with the Revised Code of Washington. Additionally, the requirement for county auditors to send vote-by-election reports to the Office of the Secretary of State is repealed.

Proposal Changes the Following Existing Rules: WAC 434-236-025, a new section gives the formula for determining the eligibility for a precinct to be made into a mail ballot precinct and the requirement to mail notices when such a change is made.

WAC 434-236-030, removes the requirement that a copy of a vote-by-mail election resolution be sent to the Office of the Secretary of State.

WAC 434-236-055, a new section details the types of elections that may be conducted entirely by mail and the notification of the jurisdiction.

WAC 434-236-050, a notice of election need not list all precincts if the entire election is to be conducted by mail.

WAC 434-236-070, in a vote-by-mail election, ballots must be made available at least twenty days prior to election day. The county auditor may send a ballot or a notice to inactive registered voters.

WAC 434-236-080, the county auditor is allowed to forward mail ballots if certain requirements are met.

WAC 434-236-100, contains minor wording changes.

WAC 434-236-110, the replacement ballot form is removed and additional methods of obtaining a replacement ballot are added.

WAC 434-236-140, removes the requirement that the county canvassing board verify signatures on return envelopes. The requirement that the signature be verified remains.

WAC 434-236-180, the county auditor is given the responsibility for the final processing of mail ballots. The time allowed for final processing and tabulation are changed to match absentee ballot requirements.

Repealing WAC 434-236-040, requires the county auditor to file a vote-by-mail plan with secretary of state; WAC 434-236-050, requires the review of the plan by the secretary of state; and WAC 434-236-210, requires the county auditor to file a vote-by-mail election report with the secretary of state.

WAC 434-240-010, changes the definition of "Hospital absentee ballot" and "Special ballot."

WAC 434-240-020, an application for an absentee ballot for a primary may also be for the following general election.

WAC 434-240-027, a new section which details requesting an absentee ballot for a family member.

WAC 434-240-060, adds inactive status as a reason to cancel ongoing absentee ballot status.

WAC 434-240-080, a new section defines who may request a special absentee ballot.

WAC 434-240-090, a special absentee ballot application form oath will no longer contain a statement that the voter will be outside the continental United States.

WAC 434-240-120, hospital absentee ballot application is changed to health care facility ballot application form. Allows for any resident of a health care facility may receive a ballot on election day by messenger.

WAC 434-240-130, requires the county auditor to send a notice to an elector submitting an incomplete application if enough time exists.

WAC 434-240-150, requires the county auditor make note in a voters record of an absentee ballot application.

WAC 434-240-190, requires that instructions on how to correct a vote be included with an absentee ballot. "Or affirm" is added to the absentee ballot oath. Details requirements for the forwarding of absentee ballots.

WAC 434-240-205, details the procedures for requesting a replacement absentee ballot.

WAC 434-240-230, details the setting for optical scan ballot counters.

WAC 434-240-235, emphasizes that efforts to provide voters the opportunity to sign unsigned affidavits are a public record.

WAC 434-240-250, removes unnecessary special ballot detail and provides procedure for the special ballots of voters who also requested an absentee ballot.

WAC 434-240-320, removes the requirement that an application form be submitted for mail ballot precinct voters and requires that the county auditor mail ballots to all active registered voters.

Repealing WAC 434-240-025, telephone request for absentee ballots is addressed in chapter 29.36 RCW; and WAC 434-240-160, this is addressed in WAC 434-240-130.

WAC 434-262-020, details the information required in the preliminary abstract of votes that the requirement that the county auditor inspect the report for errors.

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

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 (5)(b)(ii) states that this section does not apply to rules relating only to internal governmental operations.

Hearing Location: Office of the Secretary of State, 520 Union Avenue S.E., Olympia, WA 98501, on March 6, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Sheryl Moss by February 27, 2002, TDD (800) 422-8683, or (360) 902-4146.

Submit Written Comments to: Sheryl Moss, Office of the Secretary of State, P.O. Box 40232, Olympia, WA 98504, fax (360) 664-4619, by March 5, 2002.

Date of Intended Adoption: March 7, 2002.

January 23, 2002

Steve Excell

Assistant Secretary of State

NEW SECTION

WAC 434-236-025 Mail ballot precincts. (1) The county auditor may designate any precinct having fewer than two hundred active registered votes at the time of the closing of the voter registration files for that primary or election as a mail ballot precinct. In making this determination, persons who are ongoing absentee voters as described in WAC 434-240-020(7) shall not be counted.

(2) In such a case, the auditor shall notify each registered voter in the designated precinct by mail that for all future primaries and elections, or until a specified date, the voting in the voter's precinct will be by mail ballot only.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-236-030 Request for mail ballot election.

At any nonpartisan, special election, not conducted in conjunction with a primary or general election, the jurisdiction requesting the election may also request that the election be conducted entirely by mail ballot. Such a request may be included in the resolution calling for the special election adopted pursuant to RCW 29.13.010 or 29.13.020, or it may be done by separate resolution. Not less than forty days prior to the date for which a mail ballot special election has been requested, the county auditor shall inform the requesting jurisdiction, in writing, that either (1) the request for the mail ballot special election is granted, (~~pending approval of an election plan by the secretary of state,~~) or (2) that the request for the mail ballot special election is not granted, for reasons specified. (~~At the same time, the county auditor shall mail to the secretary of state a copy of the resolution for the mail ballot special election and a copy of the auditor's response.~~)

NEW SECTION

WAC 434-236-055 Odd numbered year primaries by mail. (1) In an odd-numbered year, the county auditor may conduct a primary or a special election held in conjunction with the primary:

(a) For an office or ballot measure of a special purpose district that is entirely within the county;

(b) For an office or ballot measure of a special purpose district that lies in the county and one or more other counties if the auditor first secures the concurrence of the county auditors of those other counties to conduct the primary in this manner district-wide; and

(c) For ballot measures or nonpartisan offices of a county, city, or town if the auditor first secures the concurrence of the legislative authority of the county, city, or town involved.

(2) In the event that a primary is to be held by mail ballot only, the auditor must notify the jurisdiction involved not later than forty-five days before the primary date.

(3) An all mail primary shall not be held if a partisan office, or state office, or state ballot measure is to be voted upon.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-236-060 Notice of election. In any mail ballot election, the notice of election published pursuant to RCW 29.27.080 shall include the following:

- (1) The title of each office to be voted upon, if any;
- (2) The names and addresses of all candidates; and
- (3) The ballot titles of all ballot measures.

The notice shall also list:

- (a) The precincts that are voting by mail ballot only if not the entire election;
- (b) The location where voters may obtain replacement ballots; and
- (c) The location(s) where unmailed ballots may be deposited between the hours of 7:00 a.m. and 8:00 p.m. on the day of the election, and any other dates and times such locations will be open.

The auditor shall additionally notify local radio, television, and newspapers, if applicable, that the election is to be conducted by mail ballot only.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-236-070 Delivery of ballot to voter. ~~(1) Not ((sooner than twenty five days nor))~~ later than ~~((fifteen))~~ twenty days before any mail ballot election, the county auditor shall ~~((send))~~ make available to each registered voter in the election district a ballot, a return envelope preaddressed to the issuing officer, a ballot security envelope, and instructions regarding the mail ballot election.

(2) The auditor shall send each inactive registered voter either a ballot or an application to receive a ballot. If the voter returns a voted ballot, the ballot must be counted and the voter returned to active status.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-236-080 Envelope specifications. The county auditor has the option to forward mail ballots. The envelopes in which mail ballots are mailed to the voters ~~((shall be clearly marked with))~~ shall be mailed with either:

(1) Postal service endorsements to prevent forwarding of ((the)) ballots and ensure undeliverable ballots are returned to the county auditor with address corrections; or

(2) Postal service endorsements to allow forwarding of the ballots, to receive from the post office the addresses to which ballots were forwarded, and the return of unforwardable ballots. Forwarded ballots shall also contain a clear explanation of the qualifications necessary to vote in that election and must also advise a voter who has questions about his or her eligibility to contact the county auditor.

In all other respects, mail ballot election envelopes shall conform to the requirements for absentee ballot envelopes provided in chapter 434-240 WAC.

County auditors shall be permitted to use any existing stock of mail ballot envelopes and instructions in the form specified by state law or administrative rule prior to August

1, 2001. Upon exhaustion of that stock or not later than July 1, 2002, county auditors shall comply with the provisions of this regulation when ordering mail ballot return envelopes.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-236-100 Depositing of ballots. Ballots may be deposited in the auditor's office at any time, during normal business hours, prior to the day of the election and from 7:00 a.m. to 8:00 p.m. on election day. The county auditor shall designate at least one other place ~~((of))~~ for the deposit of ballots not returned by mail within the jurisdiction holding the mail ballot special election whenever, in his or her judgment, having only the auditor's office as a place of deposit would unduly inconvenience the voter. If other places of deposit are designated, each shall be staffed by two persons designated by the auditor. Whenever possible, the persons designated by the county auditor to staff places of deposit shall be representatives of each political party entitled to nominate precinct election officers pursuant to chapter 29.45 RCW. The person designated by the auditor shall not be an employee of the jurisdiction for whom the election is conducted and shall subscribe to an oath regarding the discharge of his or her duties, administered by the county auditor. All designated places of deposit shall be open from 7:00 a.m. until 8:00 p.m. on the day of the election and shall have a secure ballot box. The county auditor may designate additional dates and times during which any or all places of deposit may be open prior to election day. The ballot box shall be constructed in such a manner that return envelopes, once deposited, may be removed only by the county auditor or the persons appointed to staff the place(s) of deposit. These persons shall ensure that the affidavit on the return envelope is signed before the ballot is deposited in the ballot box. The person(s) staffing the designated place of deposit shall add the time and place of deposit to any ballot envelope deposited after 8:00 p.m. on election day. Such ballots shall be referred to the canvassing board for consideration if special circumstances are involved and documented by the persons staffing the place of deposit.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-236-110 Obtaining replacement ballots. ~~((Each county auditor shall designate his or her office or any other location within the jurisdiction requesting the mail ballot election as the single place where voters may obtain a replacement ballot. Any voter seeking a replacement ballot must, prior to 8:00 p.m. on election day, return the original ballot if it was spoiled and sign a sworn statement in substantially the following form:~~

REPLACEMENT BALLOT REQUEST

I,, do hereby request a replacement ballot for the mail ballot election to be held on in county, Washington, for the following reason (check one):

I did not receive the ballot mailed to me.

OF

PROPOSED

The ballot mailed to me has been damaged, lost, or destroyed.

I hereby certify, under penalty of law, that the above information is true and correct, and that I understand that attempting to vote more than once in any election is a violation of Washington election law.

.....
Signature of voter

.....
Address at which I am registered to vote

The above named individual appeared before me and has been issued a replacement ballot pursuant to the provisions of chapter 71, Laws of 1983 1st sess.

.....
Signature of issuing officer

.....
(Date))

The county auditor may issue replacement ballots to a registered voter who claims that the original issued ballot is destroyed, spoiled, lost, or not received. The voter may obtain the ballot by telephone request, by mail, electronically, or in person at the county auditor's office. The county auditor shall keep a record of each replacement ballot provided under this subsection.

The county auditor shall maintain a record of each replacement ballot so issued. Any absentee ballot request made wherein the voter lists an address different from that to which his or her mail ballot has been or is to be mailed shall be handled as provided by RCW 29.36.030.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-236-140 Verification of signatures—Process. The county auditor shall verify signatures on the return envelopes in the same manner (~~the canvassing board verifies~~) signatures are verified on absentee ballot return envelopes pursuant to chapter 434-240 WAC.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-236-180 Tallying of ballots. (~~The county canvassing board, upon the request of~~) The county auditor, may begin final processing of mail ballots on hand after 7:00 a.m. on election day and tabulation at 8:00 p.m. The county auditor shall request in writing that each major political party appoint representatives to observe such counts. (~~Anyone present shall subscribe to an oath of secrecy regarding divulging election returns prior to 8:00 p.m. election night. Any violation of the secrecy of the count shall be subject to the penalties provided in RCW 29.85.225.~~) During tabulation of ballots on election night in counties using electronic voting devices, political party observers may select up to

three precincts and count by hand either the total number of ballots or the total number of votes cast for any single office or issue. This hand count may take place at any time after the ballots have been officially tabulated by the electronic vote tallying system, but must take place prior to the official certification of the election results. Except as otherwise provided by law or administrative rule, mail ballots shall be processed and canvassed in the same manner as absentee ballots.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 434-236-040 Mail ballot election plan.
- WAC 434-236-050 Review of the plan by the secretary of state.
- WAC 434-236-210 Report to the secretary of state.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-240-010 Definitions. As used in this chapter:

- (1) An "elector" of the state of Washington is any person who qualifies under state or federal law as an overseas voter, service voter, or out-of-state voter and who:
 - (a) Is not currently a registered voter in Washington or any other state;
 - (b) Will be at least eighteen years of age at the time of the next election;
 - (c) Is a citizen of the United States;
 - (d) Is a legal resident of the state, county, and precinct for at least thirty days preceding the election at which he or she offers to vote;
 - (e) Is not currently being denied his or her civil rights by being convicted of a crime for which he or she could have been sentenced to the state penitentiary;
- (2) "Out-of-state voters," "overseas voters," "protected records voters," and "service voters" are electors of the state of Washington and are **not** registered voters of Washington or any other state; electors of the state of Washington who are spouses or dependents of service voters shall be considered to be either out-of-state voters or overseas voters;
- (3) "Service voters" are electors of the state of Washington who are outside the state during the period available for voter registration and who are members of the armed forces while in active service, are students or members of the faculty at a United States military academy, are members of the merchant marine of the United States, are members of a religious group or welfare agency officially attached to and serving with the armed forces of the United States, or are certified participants in the address confidentiality program authorized by chapter 40.24 RCW.
- (4) "Canvassing" is that process of examining, in detail, a ballot, groups of ballots, election subtotals, or grand totals in order to determine the final official returns of a primary, special, or general election and in order to safeguard the integrity of the election process;

PROPOSED

(5) "Canvassing board" or "county canvassing board" is that body charged by law with the duty of canvassing absentee ballots, of ruling on the validity of special or challenged ballots, of verifying all unofficial returns as listed in the auditor's abstract of votes, and of producing the official county canvass report; it shall be composed of the county auditor, prosecuting attorney, and chairperson of the board of the county legislative authority, or their representatives, designated pursuant to the provisions of WAC 434-240-210;

(6) "Territorial limits of the United States" means the fifty United States and the District of Columbia;

(7) "Ongoing absentee ballot" is a ballot provided to voters who have requested in writing to automatically receive an absentee ballot for each ensuing election for which he or she is entitled to vote, and provided to voters who are certified participants in the address confidentiality program, pursuant to the provisions of chapter 40.24 RCW;

(8) "Hospital absentee ballot" is that absentee ballot provided to voters confined to a ~~((hospital no earlier than five days before))~~ healthcare facility on the day of a primary or election~~((, pursuant to the provisions of RCW 29.36.010))~~;

(9) "Special absentee ballot" is that ballot provided to registered voters and electors in state primary and general elections who indicate on their application that they believe they will be residing or stationed or working outside the continental United States at the time of the election and that they will be unable to vote and return a regular absentee ballot during the time period provided by law;

(10) "Regular absentee ballot" is that absentee ballot provided to voters or electors who request an absentee ballot and who do not either request or qualify for an ongoing absentee ballot, hospital absentee ballot, or special absentee ballot;

(11) "Secure storage" are those locations provided for the storage of all material connected with the absentee ballot process, including ballots, and shall be under the direct control of the county auditor. Secure storage shall employ the use of numbered seals and logs or any other security measures which will detect any inappropriate access to the secured materials when such materials are not being prepared or processed by the county auditor or persons authorized by the county canvassing board;

(12) "Challenged ballot" is that ballot issued to any voter whose registration has been challenged pursuant to the provisions of chapter 29.10 RCW and this chapter;

(13) "Special ballot" is that ballot issued to a voter by precinct election officers pursuant to WAC ~~((434-240-250 or whenever any doubt exists as to the voter's qualifications to vote in an election and no challenge has been made by either a registered voter or the precinct election officer))~~ 434-253-043.

(14) "County auditor" shall be as defined by RCW 29.01.043, and with respect to the processing of absentee ballots and applications, the term includes any employee of the county auditor who is directed in writing to perform those duties on behalf of the county auditor.

(15) "Mail ballot precinct" is any precinct containing less than two hundred active registered voters at the closing of voter registration under RCW 29.07.160 in which the county auditor has determined to conduct the voting by mail ballot.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-240-020 Applications for single absentee ballots. Any application for ~~((an))~~ a single absentee ballot which is signed by a registered voter or elector, which identifies either the voter's registration address or the elector's last physical residence for voting purposes within the state, or where a registration address can be determined by use of the county voter registration records, and which contains an address to which the ballot is to be mailed if that address is different from the registration or residence address, shall be honored by the county auditor of the county in which the voter resides or the elector maintains his or her legal residence. An application for an absentee ballot for a primary may also be for the following general election.

NEW SECTION

WAC 434-240-027 Requesting absentee ballot for family member. A member of a registered voter's immediate family may request an absentee ballot on behalf of and for use by the voter. To ensure that a person who requests an absentee ballot is requesting the ballot for an immediate family member, an election official may require a person who requests an absentee ballot to identify the date of birth of the voter for whom the ballot is requested and deny a request that is not accompanied by this information.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-240-060 Termination of ongoing absentee voter status. Status as an ongoing absentee voter shall be terminated upon the occurrence of any of the following:

- (1) The cancellation of the voter's registration record;
- (2) The written request of the voter;
- (3) The death or disqualification of the voter;
- (4) The return of an ongoing absentee ballot as undeliverable;
- (5) Upon being placed on inactive status.

A service voter, as defined in RCW 29.01.155, who is a certified participant in the address confidentiality program authorized by chapter 40.24 RCW, shall maintain ongoing absentee voter status throughout the term of their program participation.

NEW SECTION

WAC 434-240-080 Special absentee ballot. The county auditor must provide special absentee ballots to be used for state primary or state general elections. The auditor will provide a special absentee ballot only to a registered voter who completes an application stating that the voter will be unable to vote and return a regular absentee ballot by normal mail delivery within the period provided for regular absentee ballots.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-240-090 Special absentee ballot application form. Each county shall provide an application form for a special absentee ballot. This form may be produced in any format deemed appropriate by the county auditor and shall include, but not be limited to, space for the following:

- (1) The applicant's printed name and the address at which he or she is registered to vote or, if an elector, the last physical residence for voting purposes in Washington;
- (2) The address to which the special ballot is to be mailed;
- (3) An indication of the election for which the ballot is requested;
- (4) The voter's signature;
- (5) A box for the voter to check indicating that they want a regular absentee ballot forwarded to them as soon as it is available;

~~((The application shall also state that the applicant believes that he or she will be residing or stationed outside the continental United States and that he or she believes that they will be unable to vote and return a regular absentee ballot by mail during the period provided by law for the return of regular absentee ballots.))~~ (6) The declaration required in WAC 434-240-190. The county auditor shall honor any application for a special absentee ballot that is in substantial compliance with the provisions of this section.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-240-120 ((Hospital)) Health care facility absentee ballot application form. Each county shall provide an application form for ~~((hospital absentee ballots. This form may be produced in any format deemed appropriate by the county auditor and shall include, but not be limited to, space for the following:~~

- ~~(1) A statement by the voter that he or she was admitted to the hospital no earlier than five days prior to a primary or general election;~~
- ~~(2) A statement by the voter that he or she will be confined to the hospital on the day of the primary or election;~~
- ~~(3) A place for the voter to print his or her name and address;~~
- ~~(4) A place for the voter to sign the application;~~
- ~~(5) A place for the hospital administrator or his or her designee to verify the voter's date of admission and status as a patient;~~

~~Voters qualifying for hospital absentee ballots may apply by messenger on the day of the primary or election for that ballot.))~~ a registered voter who is a resident of a health care facility, as defined by RCW 70.37.020(3), to apply for an absentee ballot by messenger on election day. The messenger may pick up the voter's absentee ballot and deliver it to the voter and return it to the county auditor's office.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-240-130 Incomplete application from elector. (1) If an application for an absentee ballot from an elector ~~((is received by the county auditor and it))~~ does not contain sufficient information to enable the auditor to issue the correct absentee ballot, the auditor shall ~~((;))~~ notify the person submitting the application the reason why the application is not accepted. If ~~((in his or her judgment))~~ enough time exists to make such action practical, the county auditor shall request that the elector provide the additional information ~~((in order))~~ to enable ~~((the auditor to mail))~~ the correct absentee ballot to be mailed.

(2) If, in the judgment of the auditor, insufficient time exists to permit this action, the auditor may issue the absentee ballot that would be issued if the applicant had listed the courthouse as his or her legal residence.

(3) Upon its return, the ballot shall be referred to the county canvassing board, and only that part of the ballot containing candidates and measures common to the entire county, and any other offices or issues on which it can be conclusively determined the voter is qualified to cast a ballot, shall be tabulated.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-240-150 Verification of absentee ballot application. Upon receipt of a request for an absentee ballot made by a registered voter or an elector, the county auditor shall determine if the applicant is a registered voter within the county. ~~(((it is determined that the applicant is registered to vote, a notation shall be made that)))~~ the applicant is registered, a notation shall be made in the voter registration file to indicate that the voter has ~~((requested))~~ applied for an absentee ballot ~~((and)).~~ The appropriate ballot shall be mailed as soon as it is available. If it is determined that the application is from an elector, the county auditor shall mail the appropriate absentee ballot when available, together with any state or local voter's pamphlet produced for that election.

AMENDATORY SECTION (Amending WSR 98-03-033, filed 1/13/98, effective 2/13/98)

WAC 434-240-190 Absentee ballot envelopes. Included with any absentee ballot provided to a voter shall be:

- (1) Instructions for correctly voting the absentee ballot~~((;))~~;
- (2) Instructions how to correct a vote;
- (3) A security envelope which shall bear no markings identifying the voter~~((;))~~; and
- (4) A return envelope which shall bear the return address of the ~~((issuing officer))~~ county auditor and shall have a space for the voter to sign his or her name. The return envelope shall also have the following statement:

I do solemnly swear or affirm under penalty of law that I am a legal resident of the state of Washington enti-

PROPOSED

tled to vote in this election I have not voted another ballot, and I understand that any person attempting to vote when he or she is not entitled or who falsely signs this affidavit shall be guilty of a felony, punishable by imprisonment of not more than five years or a fine of not more than ten thousand dollars, or both such fine and imprisonment.

.....
Date Ballot Voted Signature of Voter

All absentee ballot envelopes and return envelopes shall conform to existing postal department regulations . The return envelope shall bear the words "OFFICIAL BALLOT - DO NOT DELAY" prominently displayed on the front, and shall also bear the words "POSTAGE REQUIRED" in the upper right-hand corner.

County auditors shall be permitted to use any existing stock of absentee ballot return envelopes and instructions, in the form specified by state law or administrative ((rate)) rule prior to ((June 1, 1997)) August 1, 2001. Upon exhaustion of that stock or not later than ((December 31, 1998)) July 1, 2002, county auditors shall comply with the provisions of this regulation when ordering absentee ballot return envelopes.

If the county auditor chooses to forward absentee ballots, he or she must include with the ballot a clear explanation of the qualifications necessary to vote in that election and must also advise a voter who has questions about his or her eligibility to contact the county auditor. This explanation may be provided on the ballot envelope, on an enclosed insert, or printed directly on the ballot itself. Postal service endorsements to allow forwarding of the ballots, to receive from the post office the addresses to which ballots were forwarded, and the return of unforwardable ballots shall be used on any forwardable absentee ballots. If the information is not included, the envelope must clearly indicate that the ballot is not to be forwarded and that return postage is guaranteed.

AMENDATORY SECTION (Amending WSR 99-08-089, filed 4/6/99, effective 5/7/99)

WAC 434-240-205 Replacement absentee ballots.

The county auditor may issue replacement absentee ballots to a registered voter who ((both:

- ~~(1) Requested an absentee ballot prior to election day; and~~
- ~~(2) Did not receive the absentee ballot or whose absentee ballot was damaged, lost, or destroyed.~~

~~A voter may request an absentee replacement ballot in person, by mail, by telephone, or by other electronic transmission for himself or herself and for any member of his or her immediate family-)) claims that the ballot originally issued was destroyed, spoiled, lost, or not received. The voter may request a replacement ballot by telephone, mail, electronic mail, fax, or in person at the county auditor's office. The county auditor shall keep a record of each replacement ballot provided under this section.~~

The request must be received by the auditor prior to 8:00 p.m. on election day.

~~((The county auditor shall maintain a record of each replacement ballot issued, including the date of the request.))~~

Replacement absentee ballots or the original absentee ballot, whichever is received first, shall be credited to the voter's registration file and tabulated if the ballot meets all requirements for tabulation. If the auditor receives additional ballot(s) from a voter, as indicated by the fact that the voter is already credited with voting, the additional ballot(s) shall not be counted and shall be forwarded to the county canvassing board.

AMENDATORY SECTION (Amending WSR 98-03-033, filed 1/13/98, effective 2/13/98)

WAC 434-240-230 Processing of absentee ballots. (1)

Prior to initial processing of absentee ballots, the county auditor shall notify the county chair of each major political party of the time and date on which absentee processing shall begin, and shall request that each major political party appoint official observers to observe the processing and tabulation of absentee ballots. If any major political party has appointed observers, such observers may be present for initial processing, final processing, or tabulation, if they so choose, but failure to appoint or attend shall not preclude the processing or tabulation of absentee ballots.

(2) All absentee ballot return envelopes may be opened and subsequently processed no earlier than the tenth day prior to any primary or election. In counties tabulating absentee ballots by hand, the inner security envelope may not be opened until after 8:00 p.m. on election day.

(3) In counties tabulating absentee ballots on an electronic vote tallying system, the canvassing board or its representatives may perform the initial processing of absentee ballots at any time on or after the tenth day prior to the primary or election. Following initial processing, all absentee ballots must be kept in secure storage until they are ready for final processing.

(4) Final processing may be performed only after 7:00 a.m. on the day of that primary or election.

(5) Tabulation may not occur until after 8:00 p.m. on the day of the primary or election.

(6) In counties tabulating ballots on an optical scan/mark sense vote tallying system, the auditor will set the devices to reject all overvotes and blank ballots.

(a) All rejected ballots shall be outstacked for additional manual inspection.

(b) The outstacked ballots shall be inspected in a manner similar to the original inspection with special attention being given to stray marks, erasures, and other conditions that may have caused the vote-tallying device to misread and reject the ballot.

(c) The reinspected ballots will then be processed in a manner prescribed in this chapter according to the findings of the inspection.

AMENDATORY SECTION (Amending WSR 98-03-033, filed 1/13/98, effective 2/13/98)

WAC 434-240-235 Unsigned affidavit. (1) If the voter

neglects to sign the affidavit on the return envelope, the auditor shall notify the voter, either by telephone or by first class mail, of that fact. The auditor may:

PROPOSED

(a) Require the voter to appear in person and sign the return envelope not later than the day before the certification of the primary or election; or

(b) Provide the voter with a copy of the return envelope affidavit and require the voter to sign the copy of the affidavit and mail it back to the auditor so that it arrives not later than the day before the certification of the primary or election.

(2) The auditor shall advise the voter about the correct procedures for completing the unsigned affidavit and that, in order for the ballot to be counted, the voter must either:

(a) Sign the copy of the return envelope affidavit, if one is provided by the auditor, and mail it back to the auditor so that it arrives not later than the day before the certification of the primary or election; or

(b) Appear in person at the auditor's office not later than the day before the certification of the primary or election and complete the affidavit on the return envelope.

(3) A record shall be kept of the date on which the voter was contacted or on which the notice was mailed to the voter, as well as the date on which the voter signed the return envelope or a copy of the return envelope affidavit. That record is a public record pursuant to RCW 42.17 and may be disclosed to interested parties on written request.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-240-250 Absentee voter attempting to vote at the polls. In addition to maintaining a record of all persons requesting and being issued an absentee ballot, each county auditor will, to the extent time allows, make a notation on each poll list of the persons who have been issued an absentee ballot. Whenever any voter whose name has been so marked attempts to vote at the polling place, the precinct election officers shall issue that voter a special ballot. ~~((The special ballot shall be placed in an envelope, on the outside of which the words "special ballot" shall be printed. The envelope should then be sealed and care shall be taken to ensure that no marks appear on the outside of that envelope which might identify that voter. This envelope should then be placed in a larger envelope, on the outside of which shall be printed the words "special ballot." There shall also be space on this outer envelope for the precinct election officers to indicate the name and number of the precinct, the printed name, address, and telephone number of the questioned voter, and the reason why the special ballot is being issued.))~~ The special ballot shall be securely retained until all absentee ballots have been received and credited. If the voter did not return his absentee ballot, the special ballot shall be processed as a valid ballot. If the voter has returned an absentee ballot, the ballot shall not be counted and should then be referred to the canvassing board for their disposition.

This regulation and WAC 434-240-260 shall not apply to any county that does not tabulate absentee ballots until the poll books have been examined to ensure that no voter has voted twice.

AMENDATORY SECTION (Amending WSR 98-03-033, filed 1/13/98, effective 2/13/98)

WAC 434-240-320 Mail ballot precincts. At any primary or election, general or special, the county auditor may, in any precinct having fewer than two hundred active registered voters, excluding ongoing absentee voters, at the time of closing of voter registration as provided in chapter 29.07 RCW, conduct the voting in that precinct by mail ballot. For any precinct so designated, the county auditor shall ~~((not less than fifteen days prior to the date of the primary or election))~~ mail or deliver to each active and inactive registered voter within that precinct a notice that the voting in the precinct will be by mail ballot ~~((, an application form for a mail ballot, preaddressed to the county auditor with return postage prepaid))~~. A mail ballot shall be issued to each active registered voter ((who returns a properly executed application to the county auditor no later than the day of the primary or election.)), as soon as they are available, for all ((subsequent mail ballot)) elections in that precinct ((, the application is valid so long as the voter remains active and qualified to vote. For each subsequent mail ballot election in the precinct, the county auditor shall mail a notice, mail ballot application form, preaddressed to the county auditor with return postage prepaid to each active and inactive voter in the precinct without a mail ballot application form on file with the county auditor)). The auditor shall send each inactive voter either a ballot or an application to receive a ballot. The auditor shall determine which of the two is to be sent. If the inactive voter returns a voted ballot, the ballot shall be counted and the voter's inactive status restored to active. If the inactive voter returns an application form, a ballot shall be sent and the voter's inactive status restored to active.

If the precinct exceeds two hundred registered voters, or the auditor determines to return to a polling place election environment, the auditor shall notify each registered voter, by mail, of this and shall provide the address of the polling place to be used.

Unless otherwise provided for by law or administrative rule, mail ballot precinct ballots shall be processed in the same manner as absentee ballots. For all other purposes, including the rotation of ballots and the reporting of returns, mail ballot precinct ballots shall be treated in the same manner as polling place ballots unless otherwise provided for by law or administrative rule.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-240-025	Telephone requests for absentee ballots.
WAC 434-240-160	Notification to voter of incomplete application.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-262-020 Preliminary abstract of votes.

Following the election and prior to the official canvass, the county auditor shall prepare an abstract of votes, listing the number of registered voters and votes cast, votes cast for and against measures, ((and)) votes cast for candidates, overvotes and undervotes, by precinct or groups of precincts in the event that precincts have been combined ((pursuant to)) in accordance with RCW 29.04.055, for canvassing purposes. The county auditor shall inspect the report for errors that may affect the results of the election. Correction of any errors discovered must be made prior to the official canvass.

WSR 02-03-134
PROPOSED RULES
SECRETARY OF STATE
 [Filed January 23, 2002, 11:22 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-06-022.

Title of Rule: Canvassing rules for determining voter intent.

Purpose: To define what types of votes may and may not be counted when voter intent is not clear. Such definition will provide consistency in ballot counting procedures statewide.

Statutory Authority for Adoption: RCW 29.04.210, 29.36.150.

Summary: The United States supreme court's opinion in *Bush v Gore* indicated that standards should be set statewide as to how votes are counted. The proposed changes would standardize from county to county how ballots are evaluated and counted. Proposed changes affect all types of ballots including absentee ballots, special ballots, and mail ballots.

Name of Agency Personnel Responsible for Drafting and Implementation: Sheryl Moss, Office of the Secretary of State, (360) 902-4146.

Name of Proponent: Office of the Secretary of State, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Implementation of these changes are necessitated by *Bush v Gore* as well as national studies and proposed federal legislation.

Rule is necessary because of federal court decision, *Bush v Gore*.

Explanation of Rule, its Purpose, and Anticipated Effects: This proposal includes changes on a number of sections as well as adding several sections. These changes include defining punchcard voting systems, determining how to correct a vote on a ballot, what types of marks or punches can or cannot be counted, defines special ballots and their disposition, further defines manual inspection, and adds procedures for punchcard ballot enhancement. The county canvassing boards currently make most of the decisions regard-

ing ballots without standardization throughout the state. These proposed changes provide consistency in determining voter intent on ballots.

Proposal Changes the Following Existing Rules: WAC 434-230-140, defines punchcard voting systems.

WAC 434-236-090, requires that mail ballots contain the same instructions as absentee ballots.

WAC 434-240-200, requires that absentee ballot instructions include how to correct a vote by crossing out the incorrect choice that two witnesses attest to a voter's mark if a voter cannot sign, and instructions on how to obtain a replacement ballot.

WAC 434-240-240, defines the requirements to enable the county auditor to count an absentee ballot. Also, removes the requirement that ballots postmarked too late be sent to the county canvassing board.

WAC 434-253-043, a new section which defines when a special ballot is to be issued.

WAC 434-253-045, a new section which lists the information to be included on a special ballot envelope.

WAC 434-253-047, a new section, which directs how special ballots, with common problems, shall be counted.

WAC 434-253-049, a new section, which determines how special ballots, are processed and counted.

WAC 434-261-005, adds definitions for "readable ballot," "unreadable ballot," and "valid signature."

WAC 434-261-070, further defines the inspection of ballots and how to handle physically damaged ballots, unreadable ballots, and ballots that contain marks or punches that do not follow the ballot instructions. It also describes what a valid punch is in the case of punchcards.

WAC 434-261-075, a new section, which defines what marks or punches, can or cannot be counted.

WAC 434-261-085, provides a procedure for the enhancement of punchcard ballots.

WAC 434-262-150, defines if a ballot can be counted if two ballots are found in an absentee ballot return envelope. Also, defines what vote corrections can be counted.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Does not apply to small businesses.

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 (5)(b)(ii) states that this section does not apply to rules relating only to internal governmental operations.

Hearing Location: Office of the Secretary of State, 520 Union Avenue S.E., Olympia, WA 98501, on March 6, 2002, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Sheryl Moss by February 27, 2002, TDD (800) 422-8683, or (360) 902-4146.

Submit Written Comments to: Sheryl Moss, Office of the Secretary of State, P.O. Box 40232, Olympia, WA 98501, e-mail shmoss@secstate.wa.gov, fax (360) 664-4619, by March 5, 2002.

Date of Intended Adoption: March 7, 2002.

January 23, 2002

Steve Excell

Assistant Secretary of State

PROPOSED

NEW SECTION

WAC 434-230-140 Definitions. Punchcard voting system is any voting system, which requires a punch be made for each vote cast with such punch penetrating the surface of the ballot card. Punchcard voting systems shall include, but not be limited to, the Datavote and the Votomatic punchcard voting systems.

AMENDATORY SECTION (Amending WSR 98-03-033, filed 1/13/98, effective 2/13/98)

WAC 434-236-090 Instructions to voters. Instructions shall be included with the mail ballot, the return envelope, and ballot envelope delivered to the voter. The instructions shall ~~((detail the mechanical process which must be followed in order to properly cast the ballot))~~ include all information required for absentee ballots. The instructions shall also:

- (1) Advise the voter that the election is to be by mail ballot, the amount of postage required on the return envelope, and that regular polling places will not be open;
- (2) List the location of the place where the voter may obtain a replacement ballot if his or her ballot is destroyed, spoiled, or lost;
- (3) List the location(s), dates, and times where the voter may deposit his or her ballot prior to or on election day in the event the ballot is not mailed;
- (4) Advise the voter that in order for his or her ballot to be counted it must be either postmarked not later than the day of the election or deposited at a designated place;
- (5) Advise the voter that any person attempting to vote when he or she is not entitled or who falsely signs the affidavit shall be guilty of a felony, punishable by imprisonment for not more than five years or a fine of not more than ten thousand dollars, or both such fine and imprisonment; and
- (6) State that every voter has the right to vote his or her ballot in secret.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-240-200 Absentee ballot—Instructions to voters. Included with each absentee ballot provided to applicants ~~((shall))~~ must be instructions for properly voting the ballot and for returning it in a manner that will guarantee the voter secrecy of his or her ballot. The instructions shall include the following:

- (1) Detailed instructions for correctly marking the ballot;
- (2) Detailed instructions on how the voter ~~((may))~~ must correct a spoiled ballot. To make a correction on an absentee ballot, voters shall be instructed to cross out the incorrect vote and to vote the correct choice;
- (3) Instructions on how the voter is to complete and sign the affidavit on the return envelope, or if unable to sign their name, that their mark be witnessed by two other persons;
- (4) Instructions on how the voter is to place his or her ballot in the security envelope and place the security envelope in the return envelope;
- (5) Instructions regarding postage, if required;

(6) Notice to the voter that the ballot must be postmarked not later than election day.

(7) Instructions on how to obtain a replacement ballot.

County auditors shall be permitted to use any existing stock of absentee ballot instructions, in the form specified by state law or administrative rule prior to January 1, 2002. Upon exhaustion of that stock or not later than December 31, 2002, county auditors shall comply with the provisions of this regulation when ordering absentee ballot instructions.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-240-240 Verification of the signature and postmark on absentee ballots. An absentee ballot shall be counted only if:

- (1) It is returned in the return envelope or similar envelope provided it contains the same data and signed affidavit, and is approved by the auditor;
- (2) The affidavit is signed ~~((by the registered voter to whom it was issued))~~ with a valid signature in the place afforded for the signature on the envelope or other as designated by the auditor;
- (3) The signature has been verified by the county canvassing board or if the voter is unable to sign his or her name, two other persons have witnessed the voter's mark;
- (4) It is postmarked not later than the day of the election or deposited in the auditor's office or polling location not later than 8:00 p.m. on election day; and
- (5) The absentee ballot is received ~~((by the))~~ not later than the day prior to certification of the primary or election.

The canvassing board must compare the signature on the return envelope, or on a copy of the return envelope, with the signature as it appears on the voter's voter registration card. The canvassing board may designate in writing representatives to perform this function. All personnel assigned to the duty of signature verification shall subscribe to an oath administered by the county auditor regarding the discharge of his or her duties. Personnel shall be instructed in the signature verification process prior to actually canvassing any signatures. Local law enforcement officials may instruct those employees in techniques used to identify forgeries. For service voters, overseas voters, and out-of-state voters the date of mailing shall be the date indicated by the voter on the return envelope, and any envelope which shows a date subsequent to the date of the primary or general election shall ~~((be referred to the county canvassing board for disposition))~~ not be counted. For ~~((all other absentee))~~ service, overseas, and out-of-state ballots, the date of mailing shall be the postmark, if present and legible. If the postmark is not present or legible, the date of mailing shall be considered the date indicated by the voter on the return envelope. All absentee ballots showing a postmark subsequent to the date of the primary or election, or a date indicated by the voter subsequent to the date of the primary or election if the postmark is missing or illegible, shall ~~((be referred to the county canvassing board for their disposition))~~ not be counted. The signature verification process shall be open to the public, subject to reasonable procedures adopted and promulgated by the canvassing board

to ensure that order is maintained and to safeguard the integrity of the process.

Chapter 434-253 WAC

THE POLLING PLACE—BEFORE, DURING AND AFTER THE ELECTION

NEW SECTION

WAC 434-253-043 Special ballots—When issued. A special ballot is a regular ballot issued to a person seeking to vote in a polling place under the following circumstances:

- (1) The name of the voter does not appear in the poll book;
- (2) The voter's name is in the poll book but there is an indication that the voter was issued an absentee ballot, and the voter wishes to vote at the polls; or
- (3) Other circumstances as determined by the precinct election official.

After the voter signs the poll book, the precinct election officer shall issue a special ballot outer envelope and a security envelope to the voter eligible for a special ballot. The voter shall vote the ballot in secrecy and when done, place the ballot in the security envelope, then place the security envelope with the ballot in it in the special ballot outer envelope and return it to the precinct election official. The precinct election official shall ensure that the required information is completed on the outer envelope and have the voter sign it in the appropriate space, and place it in a secure container. (See also WAC 434-240-250 for voters issued an absentee ballot.)

NEW SECTION

WAC 434-253-045 Special ballots—Required information. At a minimum, the following information will be required to be printed on the outer special ballot envelope:

- (1) Name and signature of voter.
- (2) Voter's registered address both present and former if applicable.
- (3) Voter's date of birth.
- (4) Reason for the special ballot.
- (5) Precinct and polling place at which voter has voted.
- (6) Sufficient space to list disposition of the ballot after review by the county auditor.

No special ballot shall be rejected for lack of the information described in this section as long as the voter provides a valid signature and sufficient information to determine eligibility.

County auditors shall be permitted to use any existing stock of special ballot envelopes in the form specified by state law or administrative rule prior to January 1, 2002. Upon exhaustion of that stock or not later than December 31, 2002, county auditors shall comply with the provision of this regulation when ordering special ballot envelopes.

NEW SECTION

WAC 434-253-047 Special ballots—Disposition. (1) Upon receipt of the special ballot, including special ballots

from other counties or states, the auditor must investigate the circumstances surrounding the special ballot prior to certification of the primary or election. A special ballot cannot be counted if the registered voter did not sign either the poll book or the special ballot envelope.

(a) If there is no record of the voter ever having been registered, the voter must be offered the opportunity to register and the special ballot will not be counted.

(b) If the voter was previously registered and later canceled and the auditor determines that the cancellation was in error, the voter's registration will be immediately restored and the special ballot counted.

(c) If the auditor determines that the cancellation was not in error, the voter shall be afforded the opportunity to reregister at the voter's correct address, and the special ballot will not be counted.

(2) If the voter is a registered voter but has voted a ballot other than the one which the voter would have received at his or her designated polling place, the auditor must ensure that only those votes for the positions or measures for which the voter was eligible to vote are counted.

(3) If the voter is a registered voter in another county or state, the auditor shall forward the ballot and a corresponding voter guide, or other means by which the ballot can be interpreted including rotation if applicable, within five working days after election day to the supervisor of elections for the county for which the voter is resident. If the special ballot envelope is not signed by the voter, a copy of the poll book page shall be included. If the county is not known, it shall be forwarded to the secretary of state, or counterpart, for the state in which the voter is resident.

(4) If the auditor finds that an absentee voter who voted a special ballot at the polls has also voted an absentee ballot in that primary or election, the special ballot will not be counted.

(5) The auditor will prepare a tally displaying the number of special ballots received, the number found valid and counted, the number rejected and not counted, and the reason for not counting the ballots, as part of the canvassing process and presented to the canvassing board prior to the certification of the primary or election.

NEW SECTION

WAC 434-253-049 Special ballots—Processing. When the disposition of the ballot determines that the ballot is to be counted, the ballot shall be processed in a manner similar to an absentee ballot as provided in chapter 434-240 WAC except the outer special ballot envelopes must be retained separately from the absentee ballot return envelopes. The manual inspection of the ballots as required in WAC 434-261-070 must also be carried out.

AMENDATORY SECTION (Amending WSR 99-08-089, filed 4/6/99, effective 5/7/99)

WAC 434-261-005 Definitions. (1) "Manual inspection" is the process of inspecting each voter response position on each voted ballot upon breaking the seals and opening the

ballot containers from the precincts or, in the case of precinct counting systems, prior to the certification of the election;

(2) "Duplicating ballots" is the process of ~~((copying))~~ making a true copy of valid votes from ballots that may not be properly counted by the electronic voting equipment to blank ballots of the same type and style, or as directed by the canvassing board;

(3) "Ballot enhancement" is the process of adding or covering marks on an optical scan ballot to ensure that the electronic voting equipment will tally the votes on the ballot in the manner intended by the voter, or as directed by the canvassing board((-);

(4) "Readable ballot" is any ballot that the certified vote tallying system being used can accept and read as the voter intended without alteration, and that meets the standards of the county canvassing board subject to the provisions contained in this title. In the case of punch cards, this means all voting response positions are cleanly punched and removed from the card;

(5) "Unreadable ballot" is any ballot that cannot be read by the vote tallying system as the voter intended without alteration. Unreadable ballots may include, but not be limited to, ballots with damage, write-in votes, incorrect or incomplete marks or punches, and questions of vote intent. Unreadable ballots may subsequently be counted as provided by these administrative rules;

(6) "Valid signature" is the verified signature of a registered voter eligible to vote in this primary or election as contained in the voter registration files of the county. A mark with two witnesses on an absentee ballot, a mail ballot precinct ballot, or a vote-by-mail ballot shall be considered a valid signature.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-261-070 Manual inspection of ballots. (1) Upon breaking the seals and opening the ballot containers from the precincts, all voting positions on voted ballots shall be manually inspected on both sides of the ballot and every voting position for ((damage, write-in votes, incorrect or incomplete marks, and questions of voter intent)) unreadable ballots. The same manual inspection process shall apply to absentee ballots, mail ballot precinct ballots, and vote-by-mail ballots. This manual inspection shall include examining each voter response position, and is a required part of processing ballots used with all electronic vote tabulating systems.

(2) The inspection of ballots tabulated at the poll site is not required provided that the poll site ballot programming provisions of RCW 29.51.115 are being complied with.

(3) If the manual inspection process detects any physically damaged ballots, unreadable ballots which might not be correctly counted by the tabulating equipment, or that contain marks or punches that differ from those specified in the voting instructions contained on or with the ballot but clearly form a discernible and consistent pattern on the ballot to the extent that the voter's intent can be clearly determined, the county may either:

~~((1))~~ (a) Refer the ballots to the county canvassing board;

~~((2))~~ (b) Duplicate the ballots if ~~((the intent of the voters is clear))~~ authorized by the county canvassing board; or

~~((3))~~ (c) Enhance the ballots if ~~((the intent of the voters is clear and))~~ authorized by the county canvassing board and enhancement can be accomplished without permanently obscuring the original marks or punches of the voters.

(4) In the case of punch card ballots, if two or more corners or attachment points are detached in a punch position, the vote is valid and the chad must be removed without duplication, enhancement, or reference to the county canvassing board. If less than two corners are detached, then subsection (3) of this section shall apply.

NEW SECTION

WAC 434-261-075 Manual inspection of ballot—Acceptability of marks or punches. (1) If the voter returns voting responses by mail on any form other than the ballot sent, the votes thereon shall be acceptable and tallied provided that:

(a) Only votes for offices or measures for which the voter is eligible are counted.

(b) The candidate or measure response position for which the voter is voting can be clearly identified.

(c) The ballot issued is not returned, or if returned, contains no marks or punches indicating an attempt to vote it.

(d) A valid signature on an absentee oath is on file with the county auditor.

The votes accepted must then be duplicated to a ballot that can be read by the electronic voting equipment as prescribed in WAC 434-261-090.

(2) Corrected absentee ballots shall be counted in the following manner:

(a) If a voter follows the instructions for correcting a vote, either the written instructions or others given to the voter by the county auditor, the correction shall be made and the corrected vote tabulated. The county auditor may enhance or duplicate the ballot.

(b) If a voter appears to have corrected their ballot in a manner other than as instructed, the vote for that candidate or issue shall not be tabulated unless the voter provides written instructions directing how the vote should be counted.

(3) Where a voter has indicated a write-in vote on their ballot which duplicates the name of a candidate who already appears on the ballot for the same office, the ballot shall be enhanced or duplicated to count one vote for the candidate indicated. Such a vote shall not be considered an overvote or a write-in vote.

(4) An absentee ballot, a mail ballot precinct ballot, and a vote-by-mail ballot shall not be counted if a voter signs the oath with a mark and does not have two witnesses attest to the signature.

(5) If a ballot contains marks or punches that differ from those specified in the voting instructions, those marks or punches shall not be counted as valid votes unless there is a discernible and consistent pattern, to the extent that the voter's intent can clearly be determined. If there is such a pat-

tern, the ballot shall be enhanced or duplicated to reflect the voter's intent.

ballots where such rejection is required by law or administrative rule.

NEW SECTION

WAC 434-261-085 Ballot enhancement—Punch card systems. Ballots shall only be enhanced when such enhancement will not permanently obscure marks or punches of the voters. Teams of two or more people working together shall enhance ballots. When enhancing ballots, the county auditor shall take the following steps to create and maintain an audit trail of the actions taken with respect to those enhanced ballots:

(1) Each ballot to be enhanced must be assigned a unique control number, with such number being marked on the enhanced ballot.

(2) A log shall be kept of the ballots enhanced and shall include at least the following information:

(a) The control number of each ballot enhanced;

(b) The initials of at least two people who participated in enhancing each ballot; and

(c) The total number of ballots enhanced.

(3) When the county canvassing board rejects one or more votes on a ballot that contains other valid votes, as in the case of special ballots, the ballot must be duplicated without the rejected vote(s) or the vote(s) may be overvoted on the original ballot. When overvoting, the punch made by the county auditor shall be clearly indicated on the ballot and shall follow the rules for enhancement.

(4) Enhanced ballots and ballots to be enhanced shall be sealed into secure storage at all times, except when said ballots are in the process of being enhanced, are being tabulated, or are being inspected by the canvassing board.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-262-150 Rejection of ballots or parts of ballots. Ballots or parts of ballots shall be rejected by the canvassing board in the following instances:

(1) Where two ballots are found folded together, or where a voter has voted more than one ballot;

(2) Where two ballots are contained within a returned mail ballot envelope containing only one valid signature under the affidavit, unless both ballots are voted identically, in which case one ballot will be counted. If there are two valid signatures under the affidavit, both ballots must be counted;

(3) Where a ballot or parts of a ballot are marked in such a way that it is not possible to determine voter's intent;

~~((3))~~ (4) Where the voter has voted for candidates or issues for whom he or she is not entitled to vote;

~~((4))~~ (5) Where the voter has voted for more candidates for an office than are permissible;

(6) Where the voter has incorrectly attempted to correct a vote on the ballot contrary to the instructions provided pursuant to WAC 434-240-200 unless the voter provides written instructions directing how the vote should be counted.

Additionally, the canvassing board shall reject any ballot cast by a voter not qualified to vote, and shall reject absentee

PROPOSED



WSR 02-03-038
EXPEDITED RULES
FREIGHT MOBILITY
STRATEGIC INVESTMENT BOARD

[Filed January 8, 2002, 2:43 p.m.]

Title of Rule: Freight Mobility Strategic Investment Board.

Purpose: Propose internal operating changes.

Statutory Authority for Adoption: Chapter 47.06A RCW.

Statute Being Implemented: Chapter 47.06A RCW.

Summary: Revise and clarify administrative rules and procedures. File correct address and name change.

Name of Agency Personnel Responsible for Drafting: Eileen Leingang, 310 Maple Park Avenue, Olympia, WA 98504, (360) 705-7374; Implementation and Enforcement: Karen Schmidt and Sandy Jensen, 1063 Capitol Way, Room 201, Olympia, WA 98504, (360) 586-9695.

Name of Proponent: Freight Mobility Strategic Investment Board, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Clarification and revision to administrative rules, procedures and correction of address.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The changes are to revise internal governmental operations.

Proposal does not change existing rules.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Karen Schmidt, Freight Mobility Strategic Investment Board, P.O. Box 40965, Olympia, WA 98504-0965, AND RECEIVED BY March 25, 2002.

December 27, 2001

Karen Schmidt

Executive Director

AMENDATORY SECTION (Amending WSR 99-18-048, filed 8/27/99, effective 9/27/99)

WAC 226-01-040 Time and place of meetings. Regular public meetings of the board shall be held on the third Friday of every odd numbered month. Each such regular meeting shall be held in SeaTac, Washington, and begin at the hour of 9:00 a.m. ~~((or at such other time and place as designated by the board))~~ unless otherwise designated by the board

and at which time will be posted to the register and FMSIB website at least twenty days prior to the meeting.

A special meeting of the board may be called by the chairperson or by a majority of the members of the board, by delivering personally or by mail written notice to all other members of the board at least twenty-four hours before the time of such meeting as specified in the notice. The notice calling a special meeting shall state the purpose for which the meeting is called and the date, hour, and place of such meeting, and all provisions of chapter 42.30 RCW shall apply.

AMENDATORY SECTION (Amending WSR 99-18-048, filed 8/27/99, effective 9/27/99)

WAC 226-01-050 Address of board. Persons wishing to obtain information or to make submissions or requests of any kind shall address their correspondence to:

Executive Director, Freight Mobility Strategic Investment Board

~~((Washington State Department of Transportation Highways & Local Programs Service Center))~~

1063 Capitol Way, Room 201

Post Office Box 40965

Olympia, Washington 98504-0965

AMENDATORY SECTION (Amending WSR 99-18-048, filed 8/27/99, effective 9/27/99)

WAC 226-12-080 Priority criteria for freight mobility projects. ~~((From the effective date of this act through the biennium ending June 30, 2001, the board shall use the multicriteria analysis and scoring framework for evaluating and ranking eligible freight mobility and freight mitigation projects developed by the board and contained in the January 16, 1998, report entitled "Project Eligibility, Priority and Selection Process for a Strategic Freight Investment Program."))~~ The board shall use a multicriteria analysis and scoring framework, which may be periodically refined, for evaluating and ranking eligible freight mobility and freight mitigation projects. The prioritization process shall measure the degree to which projects address important program objectives and shall generate a project score that reflects a project's priority compared to other projects. The board shall assign scoring points to each criterion that indicate the relative importance of the criterion in the overall determination of project priority. ~~((For projects funded after June 30, 2001, the board may supplement and refine the initial project priority criteria and scoring framework developed by the board.))~~

AMENDATORY SECTION (Amending WSR 99-18-048, filed 8/27/99, effective 9/27/99)

WAC 226-16-160 Work progress on freight mobility projects. The lead agency must begin work on a project within twelve months of the date the board approves the project, unless the board grants an extension. To determine if work has begun, the board will assess the project progress as compared to the information provided the board when the project was authorized for funding. If project activity has not

started and it appears the project is falling behind the proposed schedule, the board may review the project status to determine if board funds should be withdrawn from the project and reallocated to another proposed project. The board may grant an extension if, in the board's opinion, the project will begin work shortly after the original twelve-month period has elapsed. For purposes of this section, "begin work" means the date that a contract is advertised.

AMENDATORY SECTION (Amending WSR 99-18-048, filed 8/27/99, effective 9/27/99)

WAC 226-20-010 Matching ratios for freight mobility program funds. The board gives preference to projects that contain the greatest levels of financial participation from nonprogram fund sources. The board shall consider twenty percent as the minimum partnership contribution, unless the board grants a special exception. The maximum amount of funding on a project from the freight mobility board shall be fifty million dollars. The board may allow the use of matching ratios greater than the original matching ratio on any phase of a project to facilitate project development, with the understanding that the total payments made by project completion shall not exceed the original matching ratio. The board allows other state funds to be considered part of the local matching funds, and port funds expended off of port property will be considered private funds.

EXPEDITED

WSR 02-02-054
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Health and Rehabilitative Services Administration)
 [Filed December 27, 2001, 4:13 p.m.]

and treats violent sex offenders civilly committed under chapter 71.09 RCW. Rule amendments comply with law, enhance operations.

Citation of Existing Rules Affected by this Order: Amending WAC 388-880-005, 388-880-010, 388-880-020, 388-880-030, 388-880-040, 388-880-050, and 388-880-110.

Statutory Authority for Adoption: Chapter 71.09 RCW, chapter 44, Laws of 2000, ESSB 5122.

Adopted under notice filed as WSR 01-18-047 on August 29, 2001.

Date of Adoption: December 20, 2001.

Purpose: These rules are to amend chapter 388-880 WAC and add new chapter 388-881 WAC to govern the operation of the Special Commitment Center, which houses

Changes Other than Editing from Proposed to Adopted Version:

Rules as Proposed as WSR 01-18-047	Adopted Rules Compared to Proposed Rules and Explanation of Changes to Proposed Rules (additions underlined, deletions struck-through)	Statutory Reference Chapter 71.09 RCW
WAC 388-880-010 Definitions.		
<p>"Professionally qualified person" means: "Clinical practitioner" means a person employed by the department under state employment guidelines and designated to perform annual evaluations. "Sexual predator program" means a department-administered and operated program identified as the special commitment center (SCC) established for:...</p>	<p>"Professionally qualified person" means: (6) "Clinical practitioner" means a person employed by the department under state employment guidelines <u>and sex offender treatment provider certified under chapter 18.155 RCW, or a forensic therapist three or forensic therapist supervisor</u> designated to perform annual evaluations. "Sexual predator program" means a department-administered and operated program identified as <u>including</u> the special commitment center (SCC) established for:...</p> <p>-----</p> <p>Purpose of changes:</p> <ul style="list-style-type: none"> • Provides qualifications or classifications under employment guidelines. • Reflects law, which allows designated facilities besides the SCC. 	<p>RCW 71.09.040 (4) ...The evaluation shall be conducted by a person deemed to be professionally qualified to conduct such an examination pursuant to rules developed by the department of social and health services. In adopting such rules, the department of social and health services shall consult with the department of health and the department of corrections....</p> <p>RCW 71.09.020 (13) "Total confinement facility" means a facility that provides supervision and sex offender treatment services in a total confinement setting. Total confinement facilities include the special commitment center and any similar facility designated as a secure facility by the secretary.</p>
WAC 388-880-020 Authorization for indefinite commitment to the sexual predator program.		
<p>(3) The person is found to have a personality disorder and/or mental abnormality which makes the person more likely than not to engage in predatory acts of sexual violence; and....</p>	<p>(3) The person is found to have a personality disorder and/or mental abnormality which makes the person more likely than not to engage in predatory acts of sexual violence <u>unless confined in a secure facility</u>; and....</p> <p>-----</p> <p>Purpose of change: Adds the RCW consideration <i>re</i>: confinement in a secure facility.</p>	<p>RCW 71.09.060 (1)...In determining whether or not the person would be likely to engage in predatory acts of sexual violence if not confined in a secure facility....</p>
WAC 388-880-030 Sexual predator program <u>initial</u> evaluation—Reporting.		
<p>(1) ...evaluate and provide a recommendation to the court as to whether the person exhibits a personality disorder and/or mental abnormality which makes the person more likely than not to engage in predatory acts of sexual violence as defined in RCW 71.09.020; and (2) Whether release to a less restrictive alternative would be in the best interests of the person and conditions can be imposed that would adequately protect the community.</p>	<p>(1) ...evaluate and provide a recommendation to the court as to whether the person <u>has been convicted of or charged with a crime of sexual violence and exhibits a personality disorder and/or mental abnormality</u> suffers from a mental abnormality or personality disorder which makes the person more likely than not to engage in predatory acts of sexual violence as defined in RCW 71.09.020; if not confined in a secure facility, and (2) Whether release to a less restrictive alternative would be in the best interests of the person and conditions can be imposed that would adequately protect the community.</p> <p><u>(2) If the trial is continued beyond the forty-five day period specified in RCW 71.09.050(1), the evaluation must be completed and provided to attorneys for the prosecution and defense by the date ordered by the trial court or at least 30 days prior to trial.</u></p>	<p>RCW 71.09.050 (1) Within forty-five days after the completion of any hearing held pursuant to RCW 71.09.040, the court shall conduct a trial to determine whether the person is a sexually violent predator.</p> <p>RCW 71.09.020 (12) "Sexually violent predator" means any person who has been convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility.</p> <p>RCW 71.09.050 ...The trial may be continued upon the request of either party...</p>

PERMANENT

	<p>-----</p> <p>Purpose of change:</p> <ul style="list-style-type: none"> Follows language of RCW, employing SVP definition. Adds a time requirement for evaluation, if the trial is continued. 	
<p>WAC 388-880-031 Sexual predator program annual evaluation—Reporting.</p>		
<p>(1) Annually or as required by court order, the department shall examine the mental condition of each person detained or committed under chapter 71.09 RCW. The annual report shall include consideration of whether:</p> <p>(a) The person currently meets the definition of a sexually violent predator; or</p> <p>(b) The person's condition has so changed that the person no longer meets the definition of a sexually violent predator; and</p> <p>(c) Conditional release to a less restrictive alternative is:....</p>	<p>(1) Annually or as required by court order, the department shall examine the mental condition of each person detained or committed under chapter 71.09 RCW. The annual report shall include consideration of whether:</p> <p>(a) The person currently meets the definition of a sexually violent predator; or <u>and whether</u></p> <p>(b) The person's condition has so changed that the person no longer meets the definition of a sexually violent predator; and</p> <p>(e) Conditional release to a less restrictive alternative is:....</p> <p>-----</p> <p>Purpose of changes:</p> <ul style="list-style-type: none"> Specifies annual examinations of committed persons, per RCW. Contains exact considerations required in RCW. 	<p>RCW 71.09.070</p> <p>Each person committed under this chapter shall have a current examination of his or her mental condition made at least once every year. The annual report shall include consideration of whether the committed person currently meets the definition of a sexually violent predator and whether conditional release to a less restrictive alternative is in the best interest of the person and conditions can be imposed that would adequately protect the community....</p>
<p>WAC 388-880-032 Recommendation for release to a less restrictive alternative (LRA).</p>		
<p>(1) Upon an evaluation which may support a person's unconditional discharge or release to a less restrictive alternative, the SCC superintendent shall so inform the secretary.</p> <p>(2) Should the secretary concur, the secretary or the secretary's designee shall authorize the person to petition the court in accordance with RCW 71.09.090.</p>	<p>(1) Upon an evaluation which may support <u>supports</u> a person's unconditional discharge or release to a less restrictive alternative, the SCC superintendent shall so inform the secretary.</p> <p>(2) Should the secretary concur, the secretary or the secretary's designee shall authorize the person to petition the court in accordance with RCW 71.09.090.</p> <p>-----</p> <p>Purpose of change:</p> <ul style="list-style-type: none"> Provides clear determination and recommendation process, based upon clinical evaluation. 	<p>RCW 71.09.090</p> <p>(1) If the secretary determines that either: (a) The person's condition has so changed that the person no longer meets the definition of a sexually violent predator; or</p> <p>(b) conditional release to a less restrictive alternative is in the best interest of the person and conditions can be imposed that adequately protect the community, the secretary shall authorize the person to petition the court for conditional release to a less restrictive alternative or unconditional discharge.</p>
<p>WAC 388-880-040 Individual treatment.</p>		
<p>(2)(c) The person's initial or most recent annual evaluation;</p> <p>(6)(c) The person may be limited to participation in the earlier phases of treatment, since full disclosure of sex-related offenses is required of all persons in treatment and since full disclosure is unlikely if the person is not court-committed.</p>	<p>(2)(c) The person's initial or most recent annual evaluation;</p> <p>(6)(c) The person may be limited to participation in the earlier phases of treatment, since full disclosure of sex-related offenses is required of all persons in treatment and since full disclosure is unlikely if the person is not court-committed.</p> <p>-----</p> <p>Purpose of change:</p> <ul style="list-style-type: none"> Removes an error potentially harmful to all parties. Removes proposed language which is now invalid, due to an adverse court ruling. 	

PERMANENT

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 13, Amended 7, 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 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 3, Amended 5, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 13, Amended 7, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

December 20, 2001

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 97-24-054 [99-21-001], filed 10/6/99, effective 10/6/99)

WAC 388-880-005 Special commitment of sexually violent predators—Legal basis. (1) Chapter 71.09 RCW authorizes the department to develop a sexual predator program (SPP) for a person the court determines ~~((is))~~ to be a sexually violent predator.

(2) Beginning July 1, 1990, the department's SPP shall provide:

(a) Custody, supervision, and evaluation of a person court-~~((ordered))~~ detained to the SPP to determine if the person meets the definition of a sexually violent predator under ~~((this))~~ chapter 71.09 RCW; and

(b) Treatment, care, and control~~((, care, and treatment services to))~~ of a person court-committed as a sexually violent predator.

(3) Secure facilities operated by the department for the sexual predator program include the special commitment center (SCC) total confinement facility, the secure community transition facility, and any community-based facilities established under chapter 71.09 RCW and operated by the secretary or under contract with the secretary.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

NEW SECTION

WAC 388-880-007 Purpose. These rules carry out the legislative intent of chapter 71.09 RCW, authorizing the department to provide care, control, and treatment of persons court-detained or committed to the sexual predator program, identified as the special commitment center.

AMENDATORY SECTION (Amending WSR 97-24-054 [99-21-001], filed 10/6/99, effective 10/6/99)

WAC 388-880-010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

~~((1))~~ **"Appropriate facility"** means ~~((a))~~ the total confinement facility the department uses ~~((for evaluating and determining if a person meets the definition of a sexually violent predator as defined in this section))~~ to hold and evaluate a person court-detained under chapter 71.09 RCW.

~~((2))~~ **"Care"** means a service the department provides during a person's detention or commitment ~~((to the SPP to sustain))~~ within a secure facility toward adequate health, shelter, and physical sustenance.

~~((3))~~ **"Control"** means a restraint, restriction, or confinement the department applies protecting a person from

endangering self, others, or property during a ~~((commitment))~~ period of custody under ~~((this))~~ chapter 71.09 RCW.

~~((4))~~ **"Department"** means the department of social and health services.

~~((5))~~ **"Escorted leave"** means a leave of absence from a facility housing persons detained or committed under chapter 71.09 RCW under the continuous supervision of an escort.

~~((6))~~ **"Evaluation"** means an examination, report, or recommendation a professionally qualified person makes determining if a person ~~((meets or continues to meet the definition of a sexually violent predator as defined in this section))~~ has a personality disorder and/or mental abnormality, as defined in chapter 71.09 RCW, which renders the person likely to engage in predatory acts of sexual violence if not confined in a secure facility.

~~((7))~~ **"Immediate family"** includes a resident's parents, stepparents, parent surrogates, legal guardians, grandparents, spouse, brothers, sisters, half or stepbrothers or sisters, children, stepchildren, and other dependents.

~~((8))~~ **"Indigent"** means a resident who has not been credited with twenty-five dollars or more total from any source for deposit to the resident's trust fund account during the thirty days preceding the request for an escorted leave and has less than a twenty-five dollar balance in his/her trust fund account on the day the escorted leave is requested, and together with his/her requesting immediate family member affirm in writing that they cannot afford to pay the costs of the escorted leave without undue hardship. A declaration of indigency shall be signed by the resident and the resident's requesting immediate family member on forms provided by the department.

~~((9))~~ **"Individual treatment plan (ITP)"** means an outline the ~~((SPP))~~ SCC staff persons develop detailing how control, care, and treatment services are provided to a ~~((SPP-))~~ committed person or to a court-detained person.

~~((10))~~ **"Less restrictive alternative"** means court-ordered treatment in a setting less restrictive than total confinement which satisfies the conditions stated in RCW 71.09.092.

"Less restrictive alternative facility" means a secure community transition facility as defined under RCW 71.09.020(1).

"Mental abnormality" means a congenital or acquired condition, including a personality disorder, affecting ~~((a))~~ the person's emotional or volitional capacity, ((including personality disorders;)) predisposing the person to ~~((commit criminal acts of sexual violence placing other persons in danger))~~ the commission of criminal sexual acts in a degree constituting such person a menace to the health and safety of others.

~~((11))~~ **"Oversight"** means official direction, guidance, review, inspection, investigation, and information gathering activities conducted for the purposes of program quality assurance by persons or entities within, or external to, the SCC.

"Predatory" means acts a person directs toward:

(1) Strangers ~~((or))~~;

(2) Individuals with whom a relationship has been established or promoted for the primary purpose of victimization; or

(3) Persons of casual acquaintance with whom no substantial personal relationship exists.

~~((12))~~ **"Professionally qualified person"** ~~((includes))~~ means:

~~((a))~~ (1) **"Mental health counselor"** means a person ~~((certified))~~ licensed as a mental health counselor under chapter ~~((18.19 RCW))~~ 251, Laws of 2001;

~~((b))~~ (2) **"Psychiatric nurse"** means a person licensed as a registered nurse under chapter ~~((18.88))~~ 18.79 RCW and having two or more years supervised clinical experience;

~~((c))~~ (3) **"Psychiatrist"** means a person licensed as a physician under chapters 18.71 and 18.57 RCW. In addition, the person shall:

~~((i))~~ (a) Have completed three years of graduate training in a psychiatry program approved by the American Medical Association or the American Osteopathic Association; and

~~((ii))~~ (b) Be certified, or eligible to be certified, by the American Board of Psychiatry and Neurology~~((;~~

~~((d))~~;

(4) **"Psychologist"** means a person licensed as a doctor of psychology under chapter 18.83 RCW; ~~((and~~

~~((e))~~ (5) **"Social worker"** means a person ~~((certified))~~ licensed as ~~((a))~~ an advanced social worker or independent clinical social worker under chapter ~~((18.19 RCW-~~

~~((13))~~ 251, Laws of 2001; and

(6) **"Clinical practitioner"** means a sex offender treatment provider certified under chapter 18.155 RCW, or a forensic therapist three or forensic therapist supervisor designated to perform annual evaluations.

"Resident" means a person detained or committed pursuant to chapter 71.09 RCW.

~~((14))~~ **"Secretary"** means the secretary of the department of social and health services~~((;~~

~~((15))~~ or the secretary's designee.

"Secure community transition facility" means a residential facility for persons civilly committed and conditionally released to a less restrictive alternative under chapter 71.09 RCW. A secure community transition facility has supervision and security, and either provides or ensures the provision of sex offender treatment services. Secure community transition facilities include, but are not limited to, the facilities established in RCW 71.09.201 and any community-based facilities established under chapter 71.09 RCW and operated by the secretary or under contract with the secretary.

"Secure facility" means a ~~((department-operated facility, not located on the grounds of a state mental facility or residential habilitation center, with the purpose of confining and treating a person committed to the SPP.~~

~~((16))~~ residential facility for persons court-detained or committed under the provisions of chapter 71.09 RCW that includes security measures sufficient to protect the community. Such facilities include total confinement facilities, secure community transition facilities, and any residence used as a court-ordered placement in RCW 71.09.096.

"Sexual predator program ~~((SPP))~~" means a department-administered and operated program including the special commitment center (SCC) established for:

~~((a))~~ (1) A court-~~((ordered))~~ detained person's custody and evaluation; or

~~((b))~~ (2) Control, care, and treatment of a court-committed person defined as a sexually violent predator under ~~((this))~~ chapter 71.09 RCW.

~~((17))~~ **"Sexually violent offense"** means an act defined under chapter ~~((71.09))~~ 9A.28 RCW ~~((and for which a person is charged or convicted on, before, or after July 1, 1990)),~~ RCW 9.94A.030 and 71.09.020.

~~((18))~~ **"Sexually violent predator"** means ~~((a))~~ any person ~~((defined under chapter 71.09 RCW))~~ who has been convicted or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility.

~~((19))~~ **"Superintendent"** means the person delegated by the secretary of the department to be responsible for the ~~((facility housing persons detained or committed under chapter 71.09 RCW))~~ general operation, program, and facilities of the SCC.

"Total confinement facility" means a facility that provides supervision and sex offender treatment services in a total confinement setting. Total confinement facilities include the special commitment center and any similar facility designated as a secure facility by the secretary.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION (Amending Order 3609 [WSR 99-21-001], filed 10/6/99, effective 10/6/99)

WAC 388-880-020 Authorization for indefinite commitment to the sexual predator program. The department shall admit a person ~~((to the SPP))~~ as a sexually violent predator only when ~~((all of the following requirements are met))~~:

(1) ~~((Petition. The prosecuting attorney or attorney general if requested by the prosecutor files a petition with the superior court in the county where a person was most recently charged or convicted of a sexually violent offense;~~

(2) ~~Probable cause.)~~ A court determines probable cause exists and orders ~~((a))~~ the person transferred to an appropriate facility for evaluation~~((as to whether the person is a sexually violent predator))~~;

~~((3) Evaluation. A)~~

(2) The person is evaluated by one or more professionally qualified persons ~~((and is found to have:~~

(a) ~~Been charged with or convicted of a sexually violent offense;~~

(b) ~~A mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence; and~~

(c) ~~A sentence or commitment about to expire or having expired.~~

(4) ~~Trial. A court commences a trial determining if a person is a sexually violent predator within forty-five days of the~~

petition filing date, not including continuances requested by the alleged sexually violent predator; and

~~(5) Judgment.))~~;

(3) The person is found to have a personality disorder and/or mental abnormality which makes the person more likely than not to engage in predatory acts of sexual violence unless confined in a secure facility; and

(4) A court or jury finds a person, beyond a reasonable doubt, to be a sexually violent predator and the person is committed to the department's custody for control, care, and treatment.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION (Amending Order 3054 [WSR 99-21-001], filed 10/6/99, effective 10/6/99)

WAC 388-880-030 Sexual predator program initial evaluation—Reporting. (1) When a court orders a person transferred to an appropriate facility for evaluation, the department shall, ~~((within forty five days of the petition filing date))~~ prior to the scheduled commitment hearing or trial, evaluate and provide a recommendation to the court as to whether the person ~~((meets the statutory definition of a sexually violent predator under Laws of 1990, chapter 3, section 1002.~~

~~(2) Annually or more often, the department shall provide the committing court an evaluation determining if a committed person continues meeting the definition of a sexually violent predator under this chapter))~~ has been convicted of or charged with a crime of sexual violence and suffers from a mental abnormality or personality disorder which makes the person more likely than not to engage in predatory acts of sexual violence if not confined in a secure facility.

(2) If the trial is continued beyond the forty-five day period specified in RCW 71.09.050(1), the evaluation must be completed and provided to attorneys for the prosecution and defense by the date ordered by the trial court or at least thirty days prior to trial.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

NEW SECTION

WAC 388-880-031 Sexual predator program annual evaluation—Reporting. (1) Annually or as required by court order, the department shall examine the mental condition of each person committed under chapter 71.09 RCW. The annual report shall include consideration of whether:

(a) The person currently meets the definition of a sexually violent predator; and

(b) Conditional release to a less restrictive alternative is in the best interest of the person and conditions can be imposed that would adequately protect the community.

(2) The report of the department shall be in the form of a declaration or certification in compliance with the requirements of RCW 9A.72.085 and shall be prepared by a professionally qualified person as defined herein.

(3) The department shall file this periodic report with the court that detained or committed the person under chapter 71.09 RCW.

(4) A copy of this report shall be served on the prosecuting agency involved in the initial hearing or commitment and upon the detained or committed person and his or her counsel.

NEW SECTION

WAC 388-880-032 Recommendation for release to a less restrictive alternative (LRA). Upon an evaluation which supports a person's unconditional discharge or release to a less restrictive alternative, the secretary or secretary's designee shall authorize the person to petition the court in accordance with RCW 71.09.090.

AMENDATORY SECTION (Amending Order 3054 [WSR 99-21-001], filed 10/6/99, effective 10/6/99)

WAC 388-880-040 Individual treatment. (1) When the court detains a person or commits a person to the ~~((SPP as a sexually violent predator, SPP))~~ SCC, SCC staff persons shall develop an individual treatment plan (ITP) for the person.

(2) The ITP shall be based upon, but not limited to, the following information as may be available:

- (a) The person's offense history;
- (b) A psycho-social history;
- (c) The person's most recent annual evaluation; and
- (d) A statement of high risk factors for potential re-offense, as may be ascertained over time.

(3) The ITP shall include, but not be limited to:

(a) A description of ((a)) the person's specific treatment needs((:)) in:

- (i) Sex offender specific treatment;
- (ii) Substance abuse treatment;
- (iii) Supports to promote psychiatric stability;
- (iv) Supports for medical conditions and disability;
- (v) Social, family, and life skills.

(b) An outline of intermediate and long-range treatment goals, with a ((projected timetable for reaching)) cognitive and behavioral measures for achieving the goals;

(c) The treatment strategies for achieving the treatment goals;

(d) A description of ((SPP)) SCC staff persons' ((responsibility)) responsibilities; and

(e) A general plan and criteria, keyed to the resident's achievement of long-range treatment goals, for recommending to the court whether ((a)) the person should be released ((from the SPP)) to a less restrictive alternative.

~~(((2) The SPP))~~

(4) SCC staff persons shall review ((a-committed)) the person's ITP every six months ((or more often)).

(5) A detained person's plan may include access to program services and opportunities available to persons who are court-committed, with the exception that the detained person may be restricted in employment and other activities, depending on program resources and incentives reserved for persons

PERMANENT

who are court-committed and/or actively involved in treatment.

(6) Nothing in this chapter shall exclude a court-detained person from engaging in the sex offender treatment program and, should the person elect to engage in treatment prior to the person's commitment trial:

(a) The person shall be accorded privileges and access to program services in a like manner as are accorded to a committed person in treatment; and

(b) Shall not, solely by reason of the person's voluntary participation in treatment, be judged nor assumed by staff, administrators or professional persons of the SCC or of the department to meet the definition of a sexually violent predator under chapter 71.09 RCW.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

NEW SECTION

WAC 388-880-042 Resident records—Purposes. (1) The SCC shall maintain records for each person court-detained for evaluation or committed for treatment as a sexually violent predator. Such records shall include:

(a) All evaluations, records, reports, and other documents obtained from other agencies relating to the person prior to the person's detention and/or commitment to the SCC;

(b) All evaluations, clinical examinations, forensic measures, charts, files, reports, and other information made for or prepared by SCC personnel, contracted professionals, or others which relate to the person's care, control, and treatment during the person's detention or commitment to, the SCC.

(2) Records made by contracted professional persons providing treatment or residential services may be maintained in their professional files, subject to contractual arrangement for SCC or department access to those records.

NEW SECTION

WAC 388-880-043 Resident clinical records—Location and custody. (1) Records pertaining to residents of the SCC shall be kept in a location accessible only to assigned treatment providers and authorized staff persons.

(2) During the period of a person's residence at the SCC secure facility or LRA facility:

(a) The person's treatment records shall be maintained in the facility wherein the resident is housed.

(b) The person's medical and psychiatric records shall be maintained in the facility wherein the resident is housed and directly available to medical and emergency treatment providers and authorized staff persons.

(3) During the period of a person's residence in a less restrictive alternative facility operated by the department, the person's treatment records shall be maintained in a safe location accessible only by authorized staff.

(4) During a period of a resident's less restrictive alternative placement in a private home or in a facility operated by a contracting agency:

(a) Original behavioral and treatment records and evaluations shall be maintained by the contracted professional per-

son providing treatment and copies thereof shall be made available to the SCC or the department by contract requirement; and

(b) Copies of documents held by the SCC may be made available as necessary to the contracting agency, the contracted treatment provider, and the assigned community corrections officer.

NEW SECTION

WAC 388-880-044 Resident records—Access. (1) Upon request and proper showing, the department shall provide to the following persons access to a detained or committed person for an evaluation and access to all records and reports related to the person's detention, commitment, control, care, and treatment:

(a) The person's attorney;

(b) The person's professionally qualified person, if any;

(c) The prosecuting attorney, or the attorney general, if requested by the prosecuting attorney; and

(d) The professionally qualified person approved by the prosecuting attorney or the attorney general.

(2) Upon documented request by a resident, the SCC shall provide the resident supervised access to all records and reports, or to redacted copies thereof, related to the person's commitment, control, care, and treatment. The SCC may reasonably limit conditions, frequency and duration of the person's access to the person's records and reports.

(3) A policy on access to resident records shall be maintained and published to residents of the SCC.

NEW SECTION

WAC 388-880-045 Resident records—Retention. (1) The SCC shall create schedules and requirements, consistent with department policy, for the retention, storage, and disposal of records, documents, evaluations, reports, and other material related to SCC residents, to include:

(a) While a person is currently court-detained or committed to the SCC;

(b) Following a court ruling that a person does not meet the definition of a violent sexual predator within chapter 71.09 RCW and upon the person's release from the custody of the department;

(c) Following a resident's unconditional discharge from commitment;

(d) Following a resident's death.

(2) All original records specified herein and held by the SCC shall be retained in the SCC total confinement facility for a period of five years, and in the records center of the Secretary of State for a period consistent with department administrative policy, after a resident's:

(a) Release following a court ruling that the person does not meet the definition of a violent sexual predator within chapter 71.09 RCW;

(b) Unconditional discharge from commitment; or

(c) Death.

AMENDATORY SECTION (Amending Order 3609 [WSR 99-21-001], filed 10/6/99, effective 10/6/99)

WAC 388-880-050 Rights of a person court-detained or committed to the ~~((sexual predator program))~~ special commitment center. (1) During a person's ~~((commitment to the SPP))~~ period of detention or commitment, the department shall:

(a) Apprise the ~~((committed))~~ person of the person's right to an attorney and to retain a professionally qualified person to perform an evaluation on the ~~((committed))~~ person's behalf((-

~~(2) Upon request, the department shall provide to the following persons access to a committed person for an evaluation and all records and reports related to the person's commitment, control, care, and treatment:~~

- ~~(a) The committed person's attorney;~~
- ~~(b) The committed person's professionally qualified person, if any;~~
- ~~(c) The prosecuting attorney, or the attorney general, if requested by the prosecuting attorney; and~~
- ~~(d) The professionally qualified person approved by the prosecuting attorney or the attorney general.~~

~~(3));~~
(b) Provide access to the person and the person's records in accordance with RCW 71.09.080 and WAC 388-880-044.

(2) A person the court detains for evaluation or commits to the ~~((SPP))~~ SCC shall:

- (a) Receive adequate care and individualized treatment;
- (b) Be permitted to wear the ~~((committed))~~ person's own ~~((clothes and))~~ clothing except as may be required during an escorted leave from the secure facility, and to keep and use the person's ~~((personal))~~ own possessions, except when deprivation of possessions is necessary for the person's protection and safety, the protection and safety of others, or the protection of property within the ~~((SPP))~~ SCC;
- (c) Be permitted to accumulate and spend a reasonable amount of money in the person's ~~((SPP))~~ SCC account;
- (d) Have access to reasonable personal storage space within ~~((SPP))~~ SCC limitations;
- (e) Be permitted to have approved visitors within reasonable limitations;
- (f) Have reasonable access to a telephone to make and receive confidential calls within ~~((SPP))~~ SCC limitations; and
- (g) Have reasonable access to letter writing material and to:

(i) Receive and send correspondence through the mail within ~~((SPP))~~ SCC limitations and according to established safeguards against the receipt of contraband material to include, in the resident's presence, opening and inspecting packages and fanning written material; and

(ii) Send written communication regarding the fact of the person's detention or commitment.

~~((4))~~ (3) A person the court commits to the ~~((SPP))~~ SCC shall have the following procedural rights to:

- (a) Have reasonable access to an attorney and be informed of the name and address of the person's designated attorney;
- (b) Petition the court for release from the ~~((SPP))~~ SCC; and

(c) Receive annual written notice of the person's right to petition the committing court for release. The department's written notice and waiver shall:

- (i) Include the option to voluntarily waive the right to petition the committing court for release; and
- (ii) Annually be forwarded to the committing court by the department.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION (Amending WSR 97-24-054 [99-21-001], filed 10/6/99, effective 10/6/99)

WAC 388-880-110 Escort procedures. (1) Only persons approved by the superintendent, or designee, will be authorized to serve as escorts. All escorts from the total confinement facility must be employees of either the department of social and health services or the department of corrections and must have attained permanent employee status. At least one of the escorts must be experienced in the escort procedures.

(2) The superintendent, or designee, shall determine the use and type of restraints necessary for each escorted leave on an individual basis.

(3) Escorted leaves supervised by department of corrections staff shall require the approval of the SCC superintendent ~~((of the appropriate facility)), or designee,~~ and be done in accordance with ~~((established))~~ applicable department of corrections policy and procedures. The department of corrections shall be reimbursed, according to rates and procedures established between the department of social and health services and the department of corrections. Correctional officers may wear civilian clothing when escorting a resident ~~((to))~~ for a bedside visit or a funeral.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Chapter 388-881 WAC

SEXUAL PREDATOR PROGRAM—EXTERNAL OVERSIGHT

NEW SECTION

WAC 388-881-010 External oversight of the special commitment center. Independent external oversight of the SCC shall include:

- (1) A governing body;
- (2) Professional standards to be used as a benchmark for evaluation;
- (3) An inspection of care according to accepted professional standards;
- (4) An ombudsman service; and
- (5) External investigation of incidents.

NEW SECTION

WAC 388-881-015 External oversight—Governing body. The governing body for the special commitment center shall:

- (1) Be appointed by the secretary of the department of social and health services (DSHS);
- (2) Derive its membership in accordance with department policy established to this purpose;
- (3) Operate under by-laws approved by the secretary, DSHS.

NEW SECTION

WAC 388-881-020 External oversight—Professional standards. (1) The department shall develop and governing body approve for use professional practice standards applicable to treatment programs for civilly committed adult sex offenders.

- (2) Such standards shall include provisions requiring:
 - (a) Staff competency, training, and supervision;
 - (b) Adequacy of treatment components and measures of progress;
 - (c) A treatment-supportive environment;
 - (d) Provision of medical services appropriate to a residential treatment setting; and
 - (e) Program oversight.

NEW SECTION

WAC 388-881-025 External oversight—Annual inspection of care (IOC). (1) An independent, annual, on-site inspection of care, performed according to professional standards approved under this chapter, shall be conducted of the SCC at least annually.

(2) The purpose of the IOC shall be to provide objective measures of service delivery, for internal program use and quality management, to the governing body.

(3) Members of the inspection of care team shall be contracted by the department annually for a specified period during which they shall:

- (a) Conduct an on-site and documentary inspection;
- (b) Prepare interim and final, and, as requested by the SCC superintendent or governing body, supplementary reports;
- (c) Receive and consider SCC program responses to all reports.
- (4) The IOC team shall be of no fewer than four and no more than six persons.
 - (a) At least one member of the IOC team must not be a DSHS employee; and
 - (b) At least one member must be a sex offender treatment provider.

NEW SECTION

WAC 388-881-030 External oversight—Ombudsman service. (1) The SCC shall retain an ombudsman service for the purpose of conducting independent, neutral reviews of program conformance with internal SCC policies in the care, control and treatment of residents at the SCC.

(2) The ombudsman function shall be outside the supervision of the superintendent of the SCC and of the assistant secretary for health and rehabilitation services.

(3) In performance of the ombudsman function, the individual(s) so employed shall be afforded access to all records and documents normally available to public inspection according to rules and policies of the department and of the state of Washington.

NEW SECTION

WAC 388-881-035 External oversight—Investigation of incidents. (1) The Washington state patrol shall investigate incidents which involve SCC residents in accordance with department policy.

(2) The scope and authority for such investigations shall be determined through an interagency agreement between the department and the Washington state patrol.

(3) Criteria to determine which incidents justify external investigation shall be approved by the secretary, DSHS.

WSR 02-03-008**PERMANENT RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed January 4, 2002, 8:17 a.m.]

Date of Adoption: December 31, 2001.

Purpose: To adopt language inadvertently left out of rule concerning Canadian-born Indians and add new federal requirements concerning the automatic acquisition of citizenship for certain children born outside the United States.

Citation of Existing Rules Affected by this Order: Amending WAC 388-424-0010.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.530.

Other Authority: Public Law 106-395.

Adopted under notice filed as WSR 01-23-070 on November 20, 2001.

Changes Other than Editing from Proposed to Adopted Version: At subsection (3) deleted "upon adoption by a U.S. citizen"; and at subsection (3)(a) deleted "adoptive."

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: Thirty-one days after filing.
December 31, 2001

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 99-17-023, filed 8/10/99, effective 9/10/99)

WAC 388-424-0010 Alien status—Eligibility requirements for the temporary assistance for needy families program and medical benefits. (1) Qualified aliens as described in WAC 388-424-0005(3) who were residing in the United States (U.S.) before August 22, 1996 may receive temporary assistance for needy families (TANF), Medicaid, and CHIP benefits.

(2) Qualified aliens who first physically entered the U.S. after August 21, 1996 cannot receive TANF, Medicaid, or CHIP for five years after their date of entry, unless they are any of the following:

(a) An alien as described under WAC 388-424-0005 (3)(b), (d), (e), (g), or (h); or

(b) A lawful permanent resident who is:

(i) On active duty in the U.S. military, other than active duty for training;

(ii) An honorably discharged U.S. veteran;

(iii) A veteran of the military forces of the Philippines who served prior to July 1, 1946, as described in Title 38, section 107 of the U.S. code;

(iv) A Hmong or Highland Lao veteran who served in the military on behalf of the U.S. Government during the Vietnam conflict; or

(v) The spouse or unmarried dependent child(ren) of a person described in subsection (2)((~~f~~))(b)(i) through (iv) of this section.

(3) A child born outside of the U.S. automatically becomes a U.S. citizen when:

(a) At least one of the parents is a U.S. citizen by birth or naturalization;

(b) The child is under eighteen years of age; and

(c) The child is residing in the U.S. in legal and physical custody of the citizen parent.

(4) An Indian as described in WAC 388-424-0020 (2)(b) and (c) may receive Medicaid or CHIP benefits.

(5) Aliens, including PRUCOL aliens as defined in WAC 388-424-0005(4), who would qualify for Medicaid benefits, but are determined ineligible because of alien status or requirements for a Social Security Number, may receive medical coverage as follows:

(a) State-funded categorically needy (CN) scope of care for:

(i) Pregnant women, as ((specified)) described in WAC 388-462-0015;

(ii) Children as ((specified)) described in WAC 388-505-0210; or

(iii) ((Persons eligible for or receiving cash assistance under the state family assistance program (SFA)); or

(iv) Aliens who were lawfully residing in the U.S. before August 22, 1996, including PRUCOL aliens as defined in

~~WAC 388-424-0005(4))~~ Family medical as described in WAC 388-505-0220.

(b) Alien emergency medical services as ((specified)) described in WAC 388-438-0110.

((~~4~~)) (6) Alien status does not effect eligibility for the medically indigent program described in WAC 388-438-0100.

WSR 02-03-009

PERMANENT RULES

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed January 4, 2002, 8:18 a.m.]

Date of Adoption: December 31, 2001.

Purpose: To adopt language to provide for the exclusion of an income increase during the second or third month of family medical program eligibility. This rule also provides for the inclusion of the income of a sponsor when determining medical program eligibility of a sponsored alien.

Citation of Existing Rules Affected by this Order: Amending WAC 388-450-0210.

Statutory Authority for Adoption: RCW 74.08.090 and 74.08A.100.

Other Authority: Title XIX State Plan amendment 00-008.

Adopted under notice filed as WSR 01-23-071 on November 20, 1002 [2001].

Changes Other than Editing from Proposed to Adopted Version: Cross-references to appropriate WAC are added to subsection (3)(a), (c), (d), (e), and (f).

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: Thirty-one days after filing.

December 31, 2001

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

PERMANENT

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

WAC 388-450-0210 Countable income for medical programs. (1) For purposes of medical program eligibility, a client's countable income is income which remains when:

- (a) The income cannot be specifically excluded; and
- (b) All appropriate deductions and disregards allowed by a specific program, have been applied.

(2) A client's countable income cannot exceed the income standard for the specific medical programs described in WAC 388-478-0065 (~~(through 388-478-0085)~~), 388-478-0070, 388-478-0075, 388-478-0080, or 388-513-1305, 388-513-1315, or 388-513-1395 unless(:

- ~~(a) The program allows the spenddown of excess income; or~~
- ~~(b) The program ((makes an allowance)) allows~~ for those limits to be exceeded.

(3) Unless modified by subsection (4) of this section, the TANF/SFA income (~~(methodology))~~ rules, as described in this chapter, (~~(is)~~) are used to determine a client's countable income for the following programs:

(a) (~~(TANF/SFA related categorically needy (CN) or medically needy (MN))~~) Family medical program as described in WAC 388-505-0220;

(b) (~~(TANF/SFA related CN extended)~~) Medical extensions as described in chapter 388-523 WAC;

(c) Pregnant women's program((, CN or MN)) as described in WAC 388-462-0015;

(d) Children's medical program((, CN or MN)) as described in WAC 388-505-0210;

(e) Children's health program((;

~~(f) SFA related medical)) as described in WAC 388-505-0210; and~~

~~((g))~~ (f) Medically Indigent (MI) program as described in WAC 388-438-0100.

(4) Exceptions to the TANF/SFA cash assistance methodology apply as follows:

(a) The financial responsibility of relatives (~~(is more limited))~~ when a client is applying for medical (~~(as))~~ for families, children, pregnant women or for the medically indigent program is specified in ((chapter 388-408)) WAC 388-408-0055;

(b) (~~(Income is always prospectively budgeted for medical;~~

~~(e))~~ Actual work-related child and dependent care expenses, which are the client's responsibility, are income deductions (the limits on this deduction in WAC 388-450-0170 (3) and (4) do not apply);

~~((d))~~ (c) Court or administratively-ordered current or back support paid to meet the needs of legal dependents, are income deductions;

~~((e))~~ (d) Only income actually contributed to an alien client from the alien's sponsor is countable unless the sponsor signed the affidavit of support I-864 or I-864A. See subsection (5) of this section;

~~((f))~~ (e) TANF/SFA gross earned income limits as described in WAC 388-450-0165 do not apply;

~~((g))~~ (f) The fifty percent ((work-incentive)) earned income deduction is not used to calculate countable income

for CN programs with income levels based upon the Federal Poverty Level (FPL). These programs are listed in subsection (3)((b);) (c), (d) and (e) of this section. The only work related income deductions for these programs are:

(i) Ninety dollars; and

(ii) Actual work-related child and dependent care expenses, as described in ((subsection (4)(e)) (b) of this ((section)) subsection; and

(iii) Child support as described in (c) of this subsection.

(g) When determining medically needy (MN) or MN scope of care coverage for children or pregnant women for the programs described in subsection (3)(c) and (d), the exception described in subsection (4)(f) is not used as the MN income standards are not based on the FPL;

(h) A nonrecurring lump sum payment is considered as income in the month the client receives payment, and a resource if the client retains the payment after the month of receipt;

(i) Diversion cash assistance (DCA), is not countable income;

(j) Effective April 1, 2002, the department will disregard an increase in earned income when:

(i) A family is receiving benefits under the family medical program; and

(ii) The increase occurs during the second or third month of eligibility. The disregard stops the last day of the third month of eligibility for a family medical program.

(5) When an alien's sponsor has signed the affidavit of support I-864 or I-864A, the sponsor's income and resources are counted as described in WAC 388-450-0155, 388-450-0156, 388-450-0160, and 388-470-0060.

(6) Except when this state has adopted more liberal rules, SSI income ((methodology is)) rules are used to determine a client's countable income for the following programs:

(a) SSI-related CN or MN; and

(b) Medicare ((cost sharing)) savings programs. Refer to chapter 388-475 WAC.

~~((6))~~ Exceptions to the SSI income methodology apply as follows:

(a) Lump sum payments are excluded as income;

(b) The interest portion of a payment a client receives from a sales contract which is a nonexcluded resource is treated as unearned income; and

(c) The principle and interest portions of a payment a client receives from a sales contract, which meets the definition in WAC 388-470-0040(3), are treated as unearned income.)

WSR 02-03-011

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed January 4, 2002, 9:09 a.m., effective May 1, 2002]

Date of Adoption: December 28, 2001.

Purpose: Under provision of RCW 43.24.086, the cost of each professional licensing program shall be borne by the members of the profession. The director of the Department of Licensing is charged with setting fees at a level sufficient to defray the costs of administering the program.

Projected revenue for the 2001-03 biennium from licensing fees is not sufficient to cover projected operating costs for the real estate appraiser program. An increase in original license applications anticipated as a result of mandatory licensing legislation has not been realized. In addition, many licensees have opted not to renew due to market conditions and perceptions regarding the value of certification or licensing.

Current resources are needed, at a minimum, to maintain program effectiveness. Program workload has shifted from primarily an application review process to include an emphasis on the enforcement of practice standards. Consumer complaints are technical in nature, related enforcement involves increased staff training, investigation and legal support costs.

Citation of Existing Rules Affected by this Order: Amending WAC 308-125-120 Fees and charges.

Statutory Authority for Adoption: RCW 43.24.086.

Adopted under notice filed as WSR 01-23-081 on November 21, 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 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 5, 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 5, Repealed 0.

Effective Date of Rule: May 1, 2002.

January 3, 2002
Alan E. Rathbun
Assistant Director

AMENDATORY SECTION (Amending WSR 99-04-075, filed 2/2/99, effective 3/5/99)

WAC 308-125-120 Fees and charges. The following fees shall be paid under the provisions of chapter 18.140 RCW:

Title of Fee	Fee
(1)	(\$196.00) \$246.00
(2) Examination	100.00**
(3) Reexamination	100.00**
(4) Original certification	(406.00) 206.00*
(5) Certification renewal	(302.00) 407.00*
(6) Late renewal penalty	38.00
(7) Duplicate certificate	28.00

(8) Certification history record	27.00
(9) Application for reciprocity	((196.00)) 246.00
(10) Original certification via reciprocity	((406.00)) 206.00*
(11) Temporary practice	150.00

* Proposed fees for these categories marked with an asterisk include an estimated \$25.00 to be submitted by the state to Federal Government. Title XI, SEC. 1109 requires each state to submit a roster listing of state certified appraisers to the Appraiser Subcommittee "no less than annually." The state is also required to collect from such individuals who perform appraisals in federally related transactions, an annual registry fee of "not more than \$50," such fees to be transmitted by the state to the federal government on an annual basis.

** Charges for categories marked with a double asterisk are determined by contract with an outside testing service.

WSR 02-03-012
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed January 4, 2002, 9:11 a.m.]

Date of Adoption: December 26, 2001.

Purpose: Incorporation by reference of the 2002 edition of the Uniform Standards of Professional Appraisal Practice, the generally recognized national organized standards of real estate appraisal. Incorporation by reference is required because to incorporate the whole text would be unduly cumbersome and expensive.

Citation of Existing Rules Affected by this Order: Amending WAC 308-125-200.

Statutory Authority for Adoption: RCW 18.140.030 (16), (17).

Adopted under notice filed as WSR 01-21-024 on October 9, 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 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.

December 26, 2001

Alan E. Rathbun

Assistant Director, BPD

PERMANENT

AMENDATORY SECTION (Amending WSR 00-23-038, filed 11/9/00, effective 12/10/00)

WAC 308-125-200 Standards of practice. (1) The standard of practice governing real estate appraisal activities will be the ((2001)) 2002 edition of the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation. A copy of the Uniform Standards of Professional Appraisal Practice is available for review and inspection at the office of the Real Estate Appraiser Unit Office, Olympia, Washington. The Uniform Standards of Professional Appraisal Practice is a copyright document. Copy of the full text may be obtained from the Appraisal Foundation at The Appraisal Foundation, P.O. Box 96734, Washington, DC 20090-6734.

(2) Expert review appraisers as defined by RCW 18.140.010(11) while performing expert reviews pursuant to chapter 18.140 RCW are exempt from the Uniform Standards of Professional Appraisal Practice, Standard 3 review provisions while performing expert reviews for the director.

WSR 02-03-016

PERMANENT RULES

UTILITIES AND TRANSPORTATION COMMISSION

[Docket No. UG-010522, General Order No. R-497—Filed January 4, 2002, 10:04 a.m.]

In the matter of adopting WAC 480-93-240 and 480-75-240, relating to pipeline safety funding.

1 RULES CONSIDERED: The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 01-20-058, filed with the code reviser on September 28, 2001.

2 STATUTORY OR OTHER AUTHORITY: The commission brings this proceeding pursuant to RCW 80.01.040, 80.04.160, 81.04.160 and section 2, chapter 238, Laws of 2001.

3 STATEMENT OF COMPLIANCE: This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

4 DATE OF ADOPTION: The commission adopts this rule on the date that this order is entered.

5 EMERGENCY RULES: Emergency rules establishing a methodology for collection of pipeline safety fees pursuant to legislative authority were filed with the code reviser under Notice No. WSR 01-13-045 and effective June 14, 2001. The notice and workshop, and the written comments received before the adoption of the emergency rule are described in the order filed under Notice No. WSR 01-13-045. An identical emergency rule was filed with the Code Reviser under Notice No. WSR 01-21-039 and effective October 12, 2001.

6 CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: RCW 34.05.325 requires that the commission prepare and provide to commenters a concise explanatory statement about an adopted rule. The statement must include the iden-

tification of the reasons for adopting the rule, a summary of the comments received regarding the proposed rule, and responses reflecting the commission's consideration of the comments.

7 The commission often includes a discussion of those matters in its rule adoption order. In addition, most rule-making proceedings involve extensive work by commission staff that includes summaries in memoranda of stakeholder comments, commission decisions, and staff recommendations in each of those areas.

8 In this docket, to avoid unnecessary duplication, the commission designates the discussion in the staff memoranda presented at the adoption hearing and at the open meetings where the commission considered whether to begin a rule making and whether to propose adoption of specific language. Together, the documents provide a complete but concise explanation of the agency actions and its reasons for taking those actions.

9 REFERENCE TO AFFECTED RULES: These rules adopt the following sections of the Washington Administrative Code:

WAC 480-93-240 Annual pipeline safety fee methodology.

New section to establish a methodology for collecting pipeline safety fees pursuant to legislative authority to meet the cost of conducting the pipeline safety program established in Titles 80 and 81 RCW.

WAC 480-75-240 Annual pipeline safety fee methodology.

New section to establish a methodology for collecting pipeline safety fees pursuant to legislative authority to meet the cost of conducting the pipeline safety program established in Titles 80 and 81 RCW.

10 PREPROPOSAL STATEMENT OF INQUIRY: The commission filed a preproposal statement of inquiry (CR-101) on April 26, 2001, at WSR 01-01-047.

11 ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT: The statement advised interested persons that the commission was considering entering a rule making to establish the methodology for collecting pipeline safety fees. The commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notice to all pipeline operators. Pursuant to the notice, the commission called for three rounds of comments and held stakeholder workshops on May 17, and August 2, 2001. Representatives from the following companies and organizations submitted written comments, attended workshops, or both: BP Amoco/Olympic Pipeline Company, Trans Mountain Pipeline, Northwest Industrial Gas Users, Western States Petroleum Association, Puget Sound Energy, Williams Gas Pipeline/West, Tidewater Barge Lines, Inc., Avista Corporation, Weyerhaeuser Paper Company, and Gary Chandler, State Representative.

12 Oral and written comments received from the stakeholders proposed a number of language changes which the commission adopted in making its rule proposal.

13 NOTICE OF PROPOSED RULE MAKING: The commission filed a notice of proposed rule making (CR-102) on September 28, 2001, at WSR 01-20-058. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 01-20-58 [01-20-058] at 9:30 a.m., Friday, November 16, 2001, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice also provided interested persons the opportunity to submit written comments to the commission.

14 COMMENTERS (WRITTEN COMMENTS): The commission received no additional comments subsequent to filing the CR-102.

15 RULE-MAKING HEARING: The rule proposal was considered for adoption, pursuant to the notice, at a rule-making hearing scheduled during the commission's regularly scheduled open public meeting on November 16, 2001, before Chairwoman Marilyn Showalter, Commissioner Richard Hemstad and Commissioner Patrick Oshie. The commission heard oral comments from Sondra Walsh, representing commission staff. No other interested person made oral comments.

16 COMMISSION ACTION: After considering all of the information regarding this proposal, the commission adopts the proposed rules without change.

17 STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: In reviewing the entire record, the commission determines that WAC 480-93-240 and 480-75-240 should be adopted to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 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.

ORDER

18 THE COMMISSION ORDERS:

19 WAC 480-93-240 and 480-75-240 are adopted to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.380(2). When adopted these rules will replace the emergency rules adopted under Notice No. WSR 01-21-039 and effective October 12, 2001.

20 This order and the rule set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 2nd day of January, 2002.

Washington Utilities and Transportation Commission
Marilyn Showalter, Chairwoman
Richard Hemstad, Commissioner
Patrick J. Oshie, Commissioner

Appendix A

NEW SECTION

WAC 480-93-240 Annual pipeline safety fee methodology (1) Every gas company and every interstate gas pipeline company subject to inspection or enforcement by the commission will pay an annual pipeline safety fee as established in the methodology set forth in section (2) below.

(2) The fee will be set by general order of the commission entered before July 1 of each year and will be collected in four equal installments payable on the first day of each calendar quarter, beginning July 1, 2001.

(a) The total of pipeline safety fees will be calculated to recover the costs of the legislatively authorized workload represented by current appropriations, less the amount received in federal funds through the Federal Department of Transportation's Natural Gas Pipeline Safety Program base grant. Federal grants, other than the federal base grant, received by the commission for additional activities not included or anticipated in the legislatively directed workload will not be credited against company pipeline safety fees, nor will the work supported by such grants be considered a cost for purposes of calculating such fees.

(b) Total pipeline fees as determined in subsection (a) will be divided between gas companies and interstate gas pipeline companies based on two components:

(i) The first component is direct assignment of average costs associated with a company's standard inspections, including the average number of inspection days per year, which will be determined annually. Standard inspections are conducted to comply with the state's participation requirement under the "Guidelines for States Participating in the Pipeline Safety Program" of the Federal Department of Transportation, Office of Pipeline Safety.

(ii) The second component is an allocation of the remaining program costs that are not directly assigned in (i). Distribution of these costs between gas companies and interstate gas pipeline companies will be based on miles of transmission lines as defined in WAC 480-93-005(18) and miles of main as defined in WAC 480-93-005(12) operated within Washington state.

(c) The commission general order setting fees pursuant to this rule will detail the allocation of program costs between gas companies and interstate gas pipeline companies, and the specific calculation of each company's pipeline safety fee.

(3) By April 1 of each year every gas company and every interstate gas pipeline company subject to this section must file an annual report as prescribed by the Commission that is necessary to establish the annual pipeline safety fee. By June 1 of each year the commission staff will mail to each company subject to this section an annual invoice showing an estimate of the quarterly amounts.

(4) All funds received by the commission for the pipeline safety program will be deposited to the pipeline safety account. For those companies subject to RCW 80.24.010, the portion of the company's total regulatory fee applicable to pipeline safety will be transferred from the public service revolving fund to the pipeline safety account.

(5) Any company wishing to contest the amount of the fee imposed under this section must pay the fee and, within 6 months of the due date of the fee, file a petition in writing with the commission requesting a refund. The petition must state the name of the petitioner; the date and the amount paid, including a copy of any receipt, if available; the amount of the fee that is contested; and any reasons why the commission may not impose the fee. The commission may grant the petition administratively or may set the petition for adjudication or for brief adjudication.

NEW SECTION

WAC 480-75-240 Annual pipeline safety fee methodology (1) Every hazardous liquid pipeline company subject to inspection or enforcement by the commission will pay an annual pipeline safety fee as established in the methodology set forth in section (2) below.

(2) The fee will be set by general order of the commission entered before July 1 of each year and will be collected in four equal installments payable on the first day of each calendar quarter, beginning July 1, 2001.

(a) The total of pipeline safety fees will be calculated to recover the costs of the legislatively authorized workload represented by current appropriations, less the amount received in federal funds through the Federal Department of Transportation's Hazardous Liquids Pipeline Safety Program base grant. Federal grants, other than the federal base grant, received by the commission for additional activities not included or anticipated in the legislatively directed workload will not be credited against company pipeline safety fees, nor will the work supported by such grants be considered a cost for purposes of calculating such fees.

(b) Total pipeline fees as determined in (a) will be divided between intrastate hazardous liquid pipeline companies and interstate hazardous liquid pipeline companies based on two components:

(i) The first component is direct assignment of average costs associated with a company's standard inspections, including the average number of inspection days per year which will be determined annually. Standard inspections are conducted to comply with the state's participation requirement under the "Guidelines for States Participating in the Pipeline Safety Program" of the Federal Department of Transportation, Office of Pipeline Safety.

(ii) The second component is an allocation of the remaining program costs that are not directly assigned in (i). Distri-

bution of these costs between interstate and intrastate hazardous liquid pipeline companies will be based on miles of pipeline operated within Washington state.

(b) The commission general order setting fees pursuant to this rule will detail the allocation of program costs between interstate and intrastate hazardous liquid companies and the specific calculation of each company's pipeline fee.

(3) By April 1 of each year every hazardous liquids pipeline company subject to this section must file an annual report as prescribed by the commission that is necessary to establish the annual pipeline safety fee. By June 1 of each year the commission staff will mail to each company subject to this section an annual invoice showing an estimate of the quarterly amounts.

(4) All funds received by the commission for the pipeline safety program will be deposited to the pipeline safety account. For those companies subject to RCW 81.24.010 the portion of the company's total regulatory fee applicable to pipeline safety will be transferred from the public service revolving fund to the pipeline safety account.

(5) Any company wishing to contest the amount of the fee imposed under this section must pay the fee and, within 6 months of the due date of the fee, file a petition in writing with the commission requesting a refund. The petition shall state the name of the petitioner; the date and the amount paid, including a copy of any receipt, if available; the amount of the fee that is contested; and any reasons why the commission may not impose the fee. The commission may grant the petition administratively or may set the petition for adjudication or for brief adjudication.

WSR 02-03-017

PERMANENT RULES

UTILITIES AND TRANSPORTATION COMMISSION

[Docket No. UT-003074, General Order No. R-492—Filed January 4, 2002, 10:05 a.m., effective February 28, 2002]

In the matter of amending and repealing rules in chapter 480-122 WAC, relating to Washington telephone assistance program (WTAP).

1 **STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 01-16-152, filed with the code reviser on August 1, 2001. The commission brings this proceeding pursuant to RCW 80.01.040 and 80.04.160.

2 **STATEMENT OF COMPLIANCE:** This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

3 **DATE OF ADOPTION:** The commission adopts this rule to be effective February 28, 2002.

4 **CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** RCW 34.05.325 requires that the commission prepare and provide to commenters a concise explanatory statement about an adopted rule. The statement must include the iden-

tification of the reasons for adopting the rule, a summary of the comments received regarding the proposed rule, and responses reflecting the commission's consideration of the comments.

5 The commission often includes a discussion of those matters in its rule adoption order. In addition, most rule-making proceedings involve extensive work by commission staff that includes summaries in memoranda of stakeholder comments, commission decisions, and staff recommendations in each of those areas.

6 In this docket, to avoid unnecessary duplication, the commission designates the discussion in this order as its concise explanatory statement, supplemented where not inconsistent by the staff memoranda presented at the adoption hearing and at the open meetings where the commission considered whether to begin this rule making and whether to adopt the specific language proposed by staff. Together, the documents provide a complete but concise explanation of the agency's actions and the agency's reasons for taking those actions.

7 REFERENCE TO AFFECTED RULES: This rule repeals and amends the following sections of the Washington Administrative Code:

WAC 480-122-010 Definitions. Amended to clarify definitions used throughout the chapter, eliminates definitions not pertinent to the commission's jurisdiction.

WAC 480-122-020 Washington telephone assistance program rate. Amended to clarify when telecommunications carriers are required to offer telephone assistance rates and discounts.

WAC 480-122-030 Connection fees. Repealed, falls under the jurisdiction of the Department of Social and Health Services ("DSHS").

WAC 480-122-040 Deposit waiver. Repealed, falls under the jurisdiction of DSHS.

WAC 480-122-060 Telephone assistance excise tax. Amended to clarify that only wireline carriers will collect the excise tax, and eliminates a set rate to allow flexibility to adjust the rate within the statutory amount by order, at the request of DSHS.

WAC 480-122-070 Recovery of costs. Repealed, falls under the jurisdiction of DSHS.

WAC 480-122-080 Accounting. Amended to eliminate language that is no longer necessary, and that was confusing to carriers.

WAC 480-122-090 Administration. Repealed, falls under the jurisdiction of DSHS.

8 PREPROPOSAL STATEMENT OF INQUIRY: The commission filed a preproposal statement of inquiry (CR-101) on August 23, 2000, at WSR 00-17-167.

9 ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT: The preproposal statement of inquiry advised interested persons that the commission was considering entering a rule making on rules relating to the Washington telephone assistance program to review them for content and readability pursuant to Executive Order 97-02, with attention to the rules' need, effectiveness and efficiency, clarity, intent and statutory authority, coordination, cost, and fair-

ness. The review included consideration of whether substantive changes or additions were required.

10 The commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3), to all registered telecommunications companies, and to the commission's list of telecommunications attorneys. Pursuant to the notice, the commission:

- Held two interested person/stakeholder meetings.
- Conducted numerous meetings with DSHS to coordinate related rule makings underway at both agencies.
- Circulated working drafts to stakeholders for comment.
- Revised drafts based on stakeholder comments.

11 On April 17, 2001, the commission sent a small business economic impact statement ("SBEIS") to all registered telecommunications companies in the state of Washington. Based on responses received, commission staff concluded in a report dated May 14, 2001, that the expected costs caused by the proposed rules are negligible for all telecommunications companies.

12 NOTICE OF PROPOSED RULE MAKING: The commission filed a notice of proposed rule making (CR-102) on August 1, 2001, at WSR 01-16-152. The notice provided interested persons the opportunity to submit written comments to the commission.

13 WRITTEN COMMENTS: Verizon Northwest, Inc. ("Verizon"), Qwest Corporation ("Qwest"), Public Counsel, Verizon, Low Income Telecommunications Project ("LITE"), and United States Cellular Corporation submitted written comments. Numerous comments regarding the administration of WTAP by DSHS are not within the jurisdictional authority of the commission. Accordingly, commission staff was unable to directly address or resolve these issues. However, DSHS agreed to reopen its WTAP rule making to address inter-agency discrepancies raised in comments, and staff recommended that the commission's rules become effective on February 28, 2002, in order to allow DSHS sufficient time to amend their rules.

14 Other comments focused on outreach activities to promote the availability of WTAP and the proposed establishment of threshold criteria for mandatory participation in WTAP. After considering these other comments, staff recommended proceeding with adoption of the rule as drafted.

15 RULE-MAKING HEARING: The commission scheduled this matter for oral comment and adoption under Notice No. WSR 01-16-152 at a rule-making hearing during the commission's regularly scheduled open public meeting on Wednesday, September 12, 2001, at 9:30 a.m., at the commission's offices in Olympia, Washington. Chairwoman Marilyn Showalter, Commissioner Richard Hemstad, and Commissioner Patrick Oshie considered the rule proposal for adoption at the September 12, 2001, open meeting pursuant to notice. The commission heard oral comments from Kristen Russell on behalf of commission staff and from representatives of Spokane Neighborhood Action Program, Qwest, and Verizon.

16 SUGGESTIONS FOR CHANGE THAT ARE REJECTED: The commission rejected the Spokane Neighborhood Action Program's proposal to include language requiring specific outreach activities by carriers participating in WTAP. The goal to improve outreach efforts is being addressed by the Washington Utilities and Transportation Commission, DSHS, and the Federal Communications Commission. The commission presently is planning workshops to review efforts to comply with federal outreach requirements by carriers. The conduct of these workshops conveys the commission's serious concern regarding the development of effective outreach programs. Moreover, the workshops will provide an opportunity for carriers to share information with each other regarding their compliance efforts. Future workshops may lead to further review of the need for specific outreach requirements in the commission's WTAP rule.

17 The commission also rejected Qwest's suggestion that rule language requiring WTAP participation by carriers serving 100 or more residential access lines be eliminated, and that waiver provisions be added to proposed language in the commission's competitive classification rule making that is underway. The commission favors addressing this issue in the substantive rule section itself, so that the rule is structured in such a way that does not require subsequent waiver. The 100-or-more access line requirement is a low threshold, and it achieves the same result as the suggested waiver provisions but in a more direct manner.

18 COMMISSION ACTION: After considering all of the information regarding this proposal, the commission repealed and amended the rules as proposed in the CR-102 at WSR 01-16-152.

19 CHANGES FROM PROPOSAL: The commission adopted the proposal without changes to the text noticed at WSR 01-16-152.

20 STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: In reviewing the entire record, the commission determines that WAC 480-122-030, 480-122-040, 480-122-070, and 480-122-090 should be repealed.

21 The commission further determines that WAC 480-122-010, 480-122-020, 480-122-060, and 480-122-080 should be amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect on February 28, 2002.

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 4.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

ORDER

22 THE COMMISSION ORDERS That:

23 WAC 480-122-030, 480-122-040, 480-122-070, and 480-122-090 are repealed.

24 WAC 480-122-010, 480-122-020, 480-122-060, and 480-122-080 are amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect on February 28, 2002.

25 This order and the rules set out on [at] Appendix A, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 2nd day of January, 2002.

Washington Utilities and Transportation Commission
Marilyn Showalter, Chairwoman
Richard Hemstad, Commissioner
Patrick J. Oshie, Commissioner

AMENDATORY SECTION (Amending Order R-328, filed 9/11/90, effective 10/12/90)

WAC 480-122-010 Definitions. For purposes of this chapter:

(1) "Local exchange company" means a telecommunications company providing local exchange telecommunications service.

(2) "Department" means the department of social and health services.

(3) "Washington telephone assistance program" means:

(a) ~~A discount on residential service connection fees of fifty percent;~~

(b) ~~A waiver of the deposit on local residential exchange service;~~

(c) ~~A discounted flat rate on one access line for local residential exchange service for eligible persons subscribing to the lowest available local exchange flat rate service, where that rate, including any federal end user access charge or other charge necessary to obtain local exchange service, is greater than the telephone assistance rate set by the commission. Where available, single party service shall qualify as the lowest available flat rate for persons otherwise eligible, who are sixty years of age or older, or who receive medical assistance.~~

(4) ~~"Eligible person" means an adult recipient of department administered programs for the financially needy which provide continuing financial or medical assistance, food stamps, or supportive services to persons in their own homes. The department shall notify the participants of their eligibility.~~

(5) ~~"Eligibility period" means a one year period of eligibility as certified by the department. The eligibility period shall run from July 1 through June 30 of the succeeding year.~~

(6) ~~"Charge necessary to obtain local exchange service" means the charge for the lowest available grade of residential flat rate service, any federal end user access charge, any charge for nonoptional extended area service and any charge~~

PERMANENT

for nonoptional mileage. It does not include any charge for customer premises equipment or any applicable taxes) the program of local exchange service discounts administered by the department.

~~((7))~~ (4) "Switched access line" means, for the purpose of applying the telephone assistance program excise tax, a communication facility extending from a serving central office to a customer's premises to provide access to and from the switched telecommunications network for message toll service and local calling. When used with PBX or Centrex-CU a switched access line may also be referred to as a trunk.

~~((8))~~ "Connection fees" means any service charge applicable to the connection of a switched access line to establish new service, but not including line extension charges or any delinquent balance owed to the local exchange company.)

(5) Radio communications service company has the meaning found in RCW 80.04.010, except that for the purposes of this section it includes only those companies providing two-way voice communication as a common carrier.

(6) "Eligible telecommunications carrier" (ETC) means a carrier designated as an ETC pursuant to 47 U.S.C. 214(e).

AMENDATORY SECTION (Amending Order R-449, filed 9/2/98, effective 10/3/98)

WAC 480-122-020 Washington telephone assistance program rate. The commission shall set by order the telephone assistance rate to be paid by program participants for local service. Every eligible telecommunications carrier (ETC) must offer the telephone assistance rates and discounts in accordance with RCW 80.36.410 through 80.36.475. Every non-ETC local exchange company must offer the telephone assistance rates and discounts in accordance with RCW 80.36.410 through 80.36.475 when one hundred or more of its access lines are subscribed to for residential service. Radio communications service companies that are not ETCs may offer the telephone assistance rates and discounts in accordance with RCW 80.36.410 through 80.36.475.

AMENDATORY SECTION (Amending Order R-377, filed 9/28/92, effective 10/29/92)

WAC 480-122-060 Telephone assistance excise tax. ~~((Beginning November 1, 1992,))~~ Wireline local exchange companies shall collect a telephone assistance excise tax on all switched access lines ~~((of thirteen cents per month))~~ in an amount set by the commission by order at the request of the department. Each party line ~~((subscriber))~~ customer shall be assessed the telephone assistance excise tax in full. The telephone assistance excise tax shall be separately identified on each ratepayer's bill as the "Washington telephone assistance program." Money collected from the telephone assistance excise tax shall be transferred to a telephone assistance fund administered by the department.

AMENDATORY SECTION (Amending Order R-328, filed 9/11/90, effective 10/12/90)

WAC 480-122-080 Accounting. Local exchange companies shall maintain their accounting records so that

expenses associated with the telephone assistance program can be separately identified. ~~((Only the unwaived portion of the federal end-user access charge shall be shown on the rate-payer's bill.))~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 480-122-030	Connection fees.
WAC 480-122-040	Deposit waiver.
WAC 480-122-070	Recovery of costs.
WAC 480-122-090	Administration.

WSR 02-03-018

PERMANENT RULES

PUBLIC DISCLOSURE COMMISSION

[Filed January 4, 2002, 1:22 p.m.]

Date of Adoption: November 20, 2001.

Purpose: Correct typographical errors.

Citation of Existing Rules Affected by this Order: WAC 390-05-200, remove a comma at the end of the second paragraph following the word "or."

WAC 390-05-205, remove an "s" at the end of the word "consumable" to make it singular and remove a comma following the word "catering."

WAC 390-13-010, following "Subscribed and sworn to before me this ___ day of _____," add "20 ___"; add the word "at" following the notary statement.

WAC 390-13-100, add language that was inadvertently left out of subsection (1)(c); add the word "attention" to subsection (1)(f) following the word "priority."

WAC 390-16-038, add a period at the end of the rule.

WAC 390-16-060, remove the words "may be obtained" and replace with "are available"; update room number to 206.

WAC 390-16-105, add an "s" to "expenditure" and the word "person" in subsection (1); delete an "s" from "contribution" in subsection (3).

WAC 390-16-226, add a period to the end of subsection (2); add the number (3) to subsection (3); delete the second paragraph marked (3).

WAC 390-16-308, in subsection (5) remove the word "similar" and a comma following the word "organization."

WAC 390-17-060, in subsection (3) add an "s" to the word "subsection"; remove the word "section" and add the word "rule."

WAC 390-17-315, remove the word "the" that was inadvertently left in the rule when previously filed.

WAC 390-18-040, remove the word "represent" that was inadvertently left in the rule when filed; add the word "imply" that was inadvertently left out.

WAC 390-20-020, add a phrase "which includes the L-2 Memo Report, dated 1/02" and update address.

WAC 390-20-105, remove a comma in subsection (1)(a) following the word "part"; remove the word "employees" that

was inadvertently left in the rule when filed; add the word "employers" that was inadvertently left out.

WAC 390-24-200, correct the citation in subsection (1) to read "RCW 42.17.241 (1)(h) through (k)."

Update the commission's address in each of the following rules: WAC 390-12-040, 390-14-025, 390-14-045, 390-16-032, 390-16-033, 390-16-050, 390-20-110, 390-20-111, 390-20-120, 390-20-125, and 390-20-130.

Statutory Authority for Adoption: RCW 42.17.370(1).

Adopted under notice filed as WSR 01-19-079 on September 19, 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 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 26, 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 26, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 4, 2002

Vicki Rippie
Executive Director

AMENDATORY SECTION (Amending WSR 96-05-001, filed 2/7/96, effective 3/9/96)

WAC 390-05-200 Definition—Candidates for public office—Time of filing. The following circumstances shall give rise to presumption that an individual is a "candidate" as that term is defined in RCW 42.17.020(8):

- (1) The existence of a political committee promoting the election of such individual for public office with the knowledge and consent of that individual; or
- (2) A public declaration of candidacy by an individual even if the candidacy is conditioned on a future occurrence; or(~~(f)~~)
- (3) Meeting the requirements set forth in WAC 390-16-230 (1) or (2).

AMENDATORY SECTION (Amending WSR 96-05-001, filed 2/7/96, effective 3/9/96)

WAC 390-05-205 Definition of term "consumable." For the purpose of RCW 42.17.020 (14)(a)(iv) the term "consumable(~~(f)~~)" includes the amount paid for food, beverages, preparation, catering(~~(f)~~) or entertainment cost furnished at the event.

AMENDATORY SECTION (Amending WSR 00-22-057, filed 10/27/00, effective 11/27/00)

WAC 390-13-010 Optional format for requests for lists of individuals. The use of a list of individuals obtained from an agency for commercial purposes is prohibited by RCW 42.17.260. Therefore, the following format is adopted by the commission and authorized for use by agencies, at their option, to bring uniformity to the administration of that statute.

(Name of Agency) PUBLIC RECORDS ACCESS

STATE OF WASHINGTON	} ss.	AFFIDAVIT TO
COUNTY OF _____		RELEASE
		PUBLIC RECORDS
(Name and Address)		

having been duly sworn, deposes and says:

1. I have requested copies of the following public records:
2. I understand that Washington state law, RCW 42.17.260, prohibits the use of lists of individuals for commercial purposes.
3. I understand that the use for commercial purposes of said records may also violate the rights of the individuals named therein and may subject me to liability for such commercial use.
4. I understand that section 2 or 3 herein apply when I use said records for commercial purposes and when others use said records or copies of same for commercial purposes. I understand that I may be liable in either case.
5. I understand that "commercial purposes" means that the person requesting the record intends that the list will be used to communicate with the individuals named in the record for the purpose of facilitating profit expecting activity.
6. Therefore, I do hereby swear and affirm on oath and under penalty of law that I will not use said records for commercial purposes and that further, it is my affirmative duty to prevent others from using said records for commercial purposes.

Signature

SUBSCRIBED AND SWORN to before me this ___ day of _____, (~~(f)~~) 20__.

Notary Public in and for the state of Washington residing (~~(f)~~) at _____.

AMENDATORY SECTION (Amending WSR 98-12-038, filed 5/28/98, effective 6/28/98)

WAC 390-13-100 Duties of elections officials receiving copies of campaign finance reports. (1) Pursuant to RCW 42.17.375, when arranging, indexing, handling and providing access to reports filed with the county as required

PERMANENT

by chapter 42.17 RCW, county election officers shall adhere to the following:

(a) Each report on receipt shall be marked with the date (or some means of determining the date) the report was post-marked and/or the date on which it was received by the elections office.

(b) Files for these reports shall be maintained separate from all other reports and documents in the office and shall be arranged alphabetically by the name of the candidate or committee. Elections officers may segregate files into additional categories, if desired.

(c) Files may be maintained in paper or electronic form or on micrographics(~~((If files are maintained in electronic form or on micrographics))~~). If files are maintained in electronic form or on micrographics, equipment for viewing and reproducing reports on paper must be made available to the public.

(d) A separate, special index shall be maintained showing the name of each candidate or committee for whom reports are on file. The index need not list each report subsequently filed. The index shall be readily available for public inspection.

(e) Reports shall be placed in the files and available for public inspection by the end of the next business day following receipt.

(f) Mindful that the public's right to know of the financing of political campaigns is paramount, elections officials shall give priority (~~((attention))~~) attention and promptly honor each request for public inspection of the campaign finance report files.

(2) Copies of reports must be maintained by elections officers for a period of at least six years, in accordance with RCW 42.17.450, and records retention schedules prepared pursuant to chapter 40.14 RCW.

(3) A description of the county's method of filing and indexing campaign finance reports shall be updated and sent to the public disclosure commission within 30 days of a revision to the filing and indexing system.

AMENDATORY SECTION (Amending WSR 96-09-016, filed 4/8/96, effective 5/9/96)

WAC 390-16-038 Definition—Aggregate. The term "aggregate" means, for purposes of:

(1) A candidate for state office, the total amount of contributions received by the candidate, an agent of the candidate and any political committee affiliated with the candidate from the beginning of the election cycle;

(2) A candidate for local or judicial office, the total amount of contributions received by the candidate, an agent of the candidate and any political committee affiliated with the candidate from the beginning of the candidate's campaign;

(3) A bona fide political party or caucus political committee, the total amount of contributions received by the committee from January 1 of the current calendar year;

(4) A political committee, the total amount of contributions received by the committee from the date of organization;

(5) A continuing political committee, the total amount of contributions received by the committee from January 1 of the current calendar year;

(6) A contributor, the total amount of all contributions received from a person, and any person affiliated with the person, to any one candidate or political committee;

(7) A person making independent expenditures with respect to a candidate and the reporting and disclosure provisions of RCW 42.17.100, .180, .510 and .550, an independent expenditure made by a person in support of a candidate shall be added to any independent expenditure by the same person in opposition to one or more of the candidate's opponents; and, for purposes of a person making independent expenditures with respect to a ballot proposition, an independent expenditure made by a person in support of a ballot proposition shall be added to any independent expenditure by the same person in opposition to the ballot proposition or in support of an alternative ballot proposition;

(8) The special reports required by RCW 42.17.105 and 42.17.175, the total amount of contributions received or expenditures made by a single person or entity during the special reporting period;

(9) An employer of a registered lobbyist, the total amount of all contributions made to a political committee supporting or opposing a candidate for state office, or to a political committee supporting or opposing a state-wide ballot proposition during the preceding calendar year;

(10) The sponsor of a grass roots lobbying campaign, the total amount of contributions received since the beginning of the campaign and the total amount of expenditures made during the time frames specified in RCW 42.17.200(1);

(11) RCW 42.17.245, the total amount of all time and demand deposits in each financial institution on December 31;

(12) RCW 42.17.395(4), the total amount of monetary penalty that the commission may impose for multiple violations of the act(~~((f-))~~).

AMENDATORY SECTION (Amending WSR 89-20-068, filed 10/4/89, effective 11/4/89)

WAC 390-16-060 Forms for report of independent expenditures. The official form for reports of independent expenditures as required by RCW 42.17.100 is designated "C-6," revised ((1/99)) 1/02. Copies of this form ((are available) [may be obtained]) are available at the Commission Office, Room ((403)) 206, Evergreen Plaza Building, Olympia, Washington 98504. Any attachments shall be on 8 1/2" x 11" white paper.



FORM C6 1/02

THIS SPACE FOR OFFICE USE

MARK RECEIVED

INDEPENDENT CAMPAIGN EXPENDITURES \$100.00 OR MORE

Name and address of person making expenditure

- 2. Check appropriate box
One time report. I do not expect to make other independent expenditures.
I do expect to make other independent expenditures (See instructions)
Final report.

Name of candidate or ballot proposition supported or opposed: check support or oppose

List the value of all independent expenditures made if aggregate is \$100 or more. Itemize expenditures of more than \$50 made in support or in opposition to any candidate or ballot proposition during an election campaign. Do not include monetary or in-kind contributions made directly to a candidate or political committee.

Table with 4 columns: Date, Name and address of vendor or recipient, Description of expenditure (goods, services, or rights purchased or furnished), Amount or value (*see below). Includes summary rows for Expenditures \$50 or less not itemized above, Total this report period, and Total independent expenditures made during this election campaign.

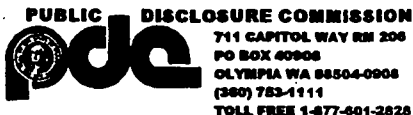
INSTRUCTIONS

WHO MUST REPORT: Persons who make expenditures aggregating \$100 or more during any election campaign in support of or opposition to a candidate or ballot proposition if not made directly to or in coordination with the candidate or a political committee.
WHEN TO REPORT: When aggregate amount reaches: less than \$100 - No report is required; \$100 or more (or value cannot be estimated) - Within 5 days; If additional expenditures made - 10th of month preceding election in which other reports are not required.
WHERE TO REPORT: Copy # 1 - Public Disclosure Commission; Copy # 2 - County Elections Officer of candidate.

AMOUNT OR VALUE

*If no reasonable estimate can be made of value, describe activity, services, property or right furnished precisely and attach copy of item produced or distributed.
CERTIFICATION: I hereby certify that the above is true, complete and correct to the best of my knowledge.
Signature of person making expenditures
Name
Title
Date

PERMANENT



FORM C6 1/02

THIS SPACE FOR OFFICE USE
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INDEPENDENT CAMPAIGN EXPENDITURES \$100.00 OR MORE

Name and address of person making expenditure

2. Check appropriate box
- One time report. I do not expect to make other independent expenditures.
 - I do expect to make other independent expenditures (See instructions)
 - Final report.

Name of candidate or ballot proposition supported or opposed: check support or oppose

List the value of all independent expenditures made if aggregate is \$100 or more. Itemize expenditures of more than \$50 made in support or in opposition to any candidate or ballot proposition during an election campaign. Do not include monetary or in-kind contributions made directly to a candidate or political committee.

Date	Name and address of vendor or recipient	Description of expenditure (goods, services, or rights purchased or furnished)	Amount or value (* see below)
Expenditures \$50 or less not itemized above			
Total this report period			\$
Total independent expenditures made during this election campaign. Include expenditures shown in this report and previously submitted reports.			\$

INSTRUCTIONS

WHO MUST REPORT:
Persons who make expenditures aggregating \$100 or more during any election campaign in support of or opposition to a candidate or ballot proposition if not made directly to or in coordination with the candidate or a political committee.

WHEN TO REPORT: When aggregate amount reaches:
 less than \$100 — No report is required
 \$100 or more (or value cannot be estimated) — Within 5 days
 if additional expenditures made — * 10th of month preceding election in which other reports are not required.
 * 21 days prior to election
 * 7 days prior to election
 * 10th day of month after election

* Required only when expenditures have been made since last report was submitted.

WHERE TO REPORT:
 Copy # 1 — Public Disclosure Commission,
 Copy # 2 — County Elections Officer of candidate. For ballot propositions with County Elections Officer of person filing this report.

AMOUNT OR VALUE

* If no reasonable estimate can be made of value, describe activity, services, property or right furnished precisely and attach copy of item produced or distributed.

CERTIFICATION: I hereby certify that the above is true, complete and correct to the best of my knowledge.

Signature of person making expenditures _____

Name _____

Title _____ Date _____

PERMANENT

AMENDATORY SECTION (Amending WSR 01-10-050, filed 4/26/01, effective 6/1/01)

WAC 390-16-105 Mini campaign reporting—Eligibility. (1) A candidate or candidate's authorized committee, as those terms are defined in RCW 42.17.020, shall not be required to comply with the provisions of RCW 42.17.060 through 42.17.090 except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 when neither aggregate contributions nor aggregate expenditure~~((s))~~s exceed the amount of the candidate's filing fee provided by law plus a sum not to exceed three thousand five hundred dollars and no contribution or contributions from any ~~((person))~~ person other than the candidate within such aggregate exceed three hundred dollars. However, a bona fide political party may pay the candidate's filing fee provided by law without that payment disqualifying that candidate from eligibility under this section.

(2) A political committee, as that term is defined in RCW 42.17.020, shall not be required to comply with the provisions of RCW 42.17.060 through 42.17.090 except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 when neither aggregate contributions nor aggregate expenditures exceed three thousand five hundred dollars and no contribution or contributions from any person exceed three hundred dollars.

(3) A continuing political committee, as that term is defined in RCW 42.17.020, shall not be required to comply with the provisions of RCW 42.17.060 through 42.17.090 except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 when neither aggregate contributions nor aggregate expenditures during a calendar year exceed three thousand five hundred dollars and no contribution~~((s))~~ or contributions from any person exceed three hundred dollars.

AMENDATORY SECTION (Amending WSR 00-22-056, filed 10/27/00, effective 11/27/00)

WAC 390-16-226 Loans. (1) Only loans which are recorded in a written loan agreement executed at the time of the loan and properly reported may be repaid by a candidate or political committee. Surplus campaign funds under RCW 42.17.020 and 42.17.095 may only be used to return a contribution to the candidate if the contribution was properly reported as a loan from the candidate, as described in subsections (2) and (3).

(2) If any person gives or loans the candidate funds in connection with his or her campaign, the funds are not considered personal funds of the candidate. See WAC 390-17-305. Such funds are considered a contribution from the original source of the contribution under chapter 42.17 RCW *and*, unless the loan meets the exemption provided in RCW 42.17.720(3) and this subsection, the contribution is subject to the contribution limits provided in chapter 42.17 RCW~~((s))~~.

(a) If a candidate or candidate's own political committee or campaign or authorized committee receives a loan from a commercial lending institution, the loan is exempt from the

contribution limits of RCW 42.17.640 and WAC 390-16-310 only if all the following criteria are met:

- (i) the loan is not guaranteed by any other person;
- (ii) the loan is made in the regular course of business; and,
- (iii) the loan is made on the same terms ordinarily available to the public.

(b) A commercial loan to a candidate's own committee or campaign or authorized committee is presumed to be guaranteed by the candidate. The presumption is rebuttable by clear, cogent and convincing evidence.

~~((3))~~ (3) The amount of campaign contributions which may be used to repay a loan made by the candidate to the candidate's own political committee or campaign, or to repay a commercial loan to a candidate's own political committee or campaign where the candidate is the borrower or guarantor, is limited to the loan repayment limit in RCW 42.17.125(3) as adjusted by WAC 390-05-400. For purposes of the loan repayment limit, these loans are aggregated for each primary, general, special or recall election and must be designated accordingly by the candidate at the time the loan is made.

~~((3))~~ (4) If a candidate makes documented out-of-pocket campaign expenditures on behalf of his or her campaign expecting repayment (not intending to make an in-kind contribution), the campaign committee must repay the candidate within 21 days of the expenditure or the candidate will be deemed to have made a loan to his or her campaign committee which must qualify for repayment under subsections (1) and (2) in order for the candidate to be repaid. Undocumented out-of-pocket campaign expenditures by the candidate are in-kind contributions not eligible for repayment.

AMENDATORY SECTION (Amending WSR 94-11-016, filed 5/5/94, effective 6/5/94)

WAC 390-16-308 Identification of source of contribution. Any person who makes a contribution shall inform the candidate or treasurer, at the time the contribution is made, of the true and actual source of funds from which the contribution is made. To identify the source of a contribution received by check or other written instrument in the absence of other information, a candidate or treasurer shall apply the following:

Provided, that in cases where the source of the contribution is known and differs from the guidelines set forth below, the known source of the contribution shall be reported;

Provided further, that contributions made through an intermediary or conduit or transmitted by an intermediary shall identify the true and actual source of the funds.

(1) A contribution drawn upon a single account shall be attributed to the account holder as identified by the name printed on the face of the check or negotiable instrument.

(2) A contribution drawn upon a joint account shall be attributed in equal proportion to each of the account holders as identified by the names printed on the face of the check or negotiable instrument unless the candidate or treasurer is notified in writing that the contribution should be allocated in different proportions.

(3) A contribution made by a sole proprietor or drawn upon the account of a business which is a sole proprietorship shall be attributed to the owner of the business entity.

(4) A contribution drawn upon the account of a partnership shall be attributed to the partnership as a separate entity except that;

Any check drawn upon the partnership account but which is to be paid from the capital account of one or more individual partners shall identify at the time of transmittal to the candidate or treasurer the name(s) of the contributing partner(s) and shall be attributed to the contributing partner(s).

(5) A contribution drawn upon the account of a corporation, union, association or other ~~((similar))~~ organization~~((;))~~ shall be attributed to the corporation, union, association or other organization as a separate entity unless that entity is affiliated with another entity pursuant to WAC 390-16-309 in which case a contribution from one of those entities is attributed to both entities.

AMENDATORY SECTION (Amending WSR 96-05-001, filed 2/7/96, effective 3/9/96)

WAC 390-17-060 Exempt activities—Definitions, reporting. (1)(a) "Exempt contributions" are contributions made to a political committee which are earmarked for exempt activities as described in RCW 42.17.640 (14)(a) and (b). Such contributions are required to be reported under RCW 42.17.090, are subject to the restrictions in RCW 42.17.105(8), but are not subject to the contribution limits in RCW 42.17.640. Any written solicitation for exempt contributions must be so designated. Suggested designations are "not for individual candidates" or "for exempt activities."

(b) Contributions made to a caucus of the state legislature, to a candidate or candidate's authorized committee which are earmarked for voter registration, absentee ballot information, get-out-the-vote campaigns, sample ballots are presumed to be for the purpose of promoting individual candidates and are subject to the contribution limits in RCW 42.17.640.

(c) Contributions made to a caucus of the state legislature, to a candidate or candidate's authorized committee which are earmarked for internal organization expenditures or fundraising are presumed to be with direct association with individual candidates and are subject to the contribution limits in RCW 42.17.640.

(2) "Exempt contributions account" is the separate bank account into which only exempt contributions are deposited and out of which only expenditures for exempt activities shall be made.

(3) "Exempt activities" are those activities described in RCW 42.17.640(14), expenditures for which are exempt from the contribution limits of RCW 42.17.640. However, only those activities described in RCW 42.17.640(14) as further defined in subsection~~((s))~~ (4) and (5) of this ~~((section))~~ ~~((rule))~~ rule are eligible for payment with exempt contributions.

(4)(a) If activities described in RCW 42.17.640 (14)(a) promote clearly identified candidate(s), the activities are a contribution to those candidate(s). Expenditures for these

activities may not be made with exempt contributions. If more than one clearly identified candidate is promoted, the amount expended shall be allocated proportionally among those candidates. The amount expended for such activities shall be reported as a contribution to that candidate(s). Candidate(s) shall be notified in writing of the contribution within five business days of the expenditure.

(b) A candidate is deemed to be clearly identified if: The name of the candidate is used; a photograph or drawing of the candidate appears; or the identity of the candidate is apparent by unambiguous reference.

(c) An activity that benefits or opposes fewer than three individual candidates shall be presumed to be for the purpose of promoting individual candidates whether or not they are clearly identified. Such an activity does not constitute a contribution to any candidate who is not clearly identified, but the activity shall not be paid with exempt funds.

(5)(a) "Internal organization expenditures" described in RCW 42.17.640 (14)(b) are expenditures for organization purposes, including legal and accounting services, rental and purchase of equipment and office space, utilities and telephones, postage and printing of newsletters for the organization's members or contributors or staff when engaged in organizational activities such as those previously listed, all without direct association with individual candidates.

(b) "Fundraising expenditures" described in RCW 42.17.640 (14)(b) are expenditures for fundraising purposes, including: Facilities for fundraisers, consumables furnished at the event and the cost of holding social events and party conventions, all without direct association with individual candidates.

(c) If expenditures made pursuant to ~~((subsections))~~ subsections (a) and (b) ~~((of this subsection))~~ ~~((above))~~ above are made in direct association with individual candidates, they shall not be paid with exempt contributions.

(6) For purposes of RCW 42.17.640 (14)(a) and this section, activities that oppose one or more clearly identified candidates are presumed to promote the opponent(s) of the candidate(s) opposed.

AMENDATORY SECTION (Amending WSR 96-05-001, filed 2/7/96, effective 3/9/96)

WAC 390-17-315 Political committees—Qualifications to contribute. In order to make contributions as permitted by RCW 42.17.640(11), a political committee shall, within ~~((the))~~ 180 days prior to making the contribution, have received contributions of \$10 or more from at least ten individuals registered to vote in Washington state at the time they contributed to the political committee. Upon written request of the commission or other person seeking this information, the political committee shall provide within 14 days a list of these ten individuals, identified by name, address, amount of contribution and date contribution was received.

AMENDATORY SECTION (Amending WSR 92-12-037, filed 5/29/92, effective 6/29/92)

WAC 390-18-040 Use of the terms "reelect," "retain," and "return." (1) The term "reelect" when used in

a political advertisement represents that the candidate is presently holding the office being sought, was elected to it, and is seeking another term in that same office in the same district or political subdivision.

(2) The term "reelect" may be used in a political advertisement by a nonincumbent candidate who has previously been elected to the office being sought provided that in the same advertisement it is clearly stated that the candidate is not the incumbent.

(3) The term "retain" in a political advertisement represents that the candidate is the incumbent but does not ~~((represent))~~ ~~(imply))~~ imply that the candidate attained the office by election.

(4) The term "return" in a political advertisement represents that the candidate now holds, or has previously held, the office being sought, but does not represent that the office was attained by election.

(5) Whenever the boundaries of a district or political subdivision are officially altered through redistricting, consolidation or other official procedures, the candidate holding an office in the affected district or political subdivision may, in a political advertisement, use the term "reelect," "retain" or "return," as appropriate, if the candidate is seeking the same office in the revised district or political subdivision.

(6) Stating the office sought (e.g., "mayor") by a candidate in a political advertisement without expressly stating the candidate is seeking election to the office (e.g., "for mayor"; "Elect Smith Mayor") represents that the candidate presently holds that office.

PERMANENT

AMENDATORY SECTION (Amending WSR 96-01-103, filed 12/19/95, effective 1/19/96)

WAC 390-20-020 Forms for lobbyist report of expenditures. The official form for the lobbyist report of expenditures is designated "L-2," revised (([which includes the L-2 Memo Report, dated 11/92] 11/95)) 1/02 which includes the L-2 Memo Report, dated 1/02. Copies of this form are available at the Commission Office, Room ((403)) 206, Evergreen Plaza Building, Olympia, Washington 98504. (([Any attachments shall be on 8-1/2" x 11" white paper.]) Any attachments shall be on 8-1/2" x 11" white paper.

PUBLIC DISCLOSURE COMMISSION
711 CAPITOL WAY RM 206
PO BOX 40908
OLYMPIA WA 98504-0908
(360) 753-1111
TOLL FREE 1-877-601-2828

L2
11/95

PDC OFFICE USE

Lobbyist Monthly Expense Report

(as required by Chapter 397, 1995 Session Laws)

Lobbyist Name
Mailing Address
City State Zip + 4
New Address? Yes No
This report is for the period (Month) (Year)
This report corrects or amends the report for (Month) (Year)
Business Telephone () -

ALL COMPLETE THIS PART COMPLETE IF YOU HAVE MORE THAN ONE EMPLOYER
Include all reportable expenditures by lobbyist and lobbyist's employer for or on behalf of the lobbyist incurred during the reporting period Amount attributed to each employer

Table with columns: Expense Category, TOTAL AMOUNT THIS MONTH, Amounts paid from lobbyist's own funds, Employer No., Employer No., Employer No. Rows include Compensation, Personal Expenses, Entertainment, Contributions, Advertising, Political Ads, Other Expenses, and Total Compensation.

(Attach additional page(s) if you lobby for more than three employers.)

- 11. EMPLOYERS' NAMES
No. (B)
No. (C)
No. (D)

- 12. Subject matter of proposed legislation or other legislative activity or rulemaking the lobbyist was supporting or opposing.
Subject Matter, Issue or Bill No. Legislative Committee or State Agency Considering Matter Employer Represented

Continued on attached pages

- 13. Of the time spent lobbying, what percentage was devoted to lobbying: the Legislature % State Agencies %.

- 14. TERMINATION: (COMPLETE THIS ITEM ONLY IF YOU WISH TO TERMINATE YOUR REGISTRATION)

Date registration ends: Employer's name:

I understand that an L-2 report is required for any month or portion thereof in which I am a registered lobbyist. I also understand that once I have terminated my registration, I must file a new registration prior to lobbying for that employer in the future. All registrations terminate automatically on the second Monday in January of each odd numbered year.

CERTIFICATION
I certify that this report is true and complete to the best of my knowledge. LOBBYIST SIGNATURE DATE

CONTINUE ON REVERSE

L2

Page 2

lobbyist Name _____ Reporting Period _____ (Month) _____ (Year)

5. Itemize all of the following expenditures that were incurred by lobbyist or lobbyist employer(s) for legislators, state officials, state employees and members of their immediate families. Show the actual amount incurred for each individual or the amount fairly attributed to each.
- Entertainment expenditures exceeding \$25 per occasion (including lobbyist's expense) for meals, beverages, tickets, passes, or for other forms of entertainment.
 - Travel, lodging and subsistence expenses in connection with a speech, presentation, appearance, trade mission, seminar or educational program.
 - Enrollment and course fees in connection with a seminar or educational program.
- Lobbyists must provide an elected official with a copy of the L-2 or Memo Report if the lobbyist reports: 1) spending on one occasion over \$50 for food or beverages for the official and/or his or her family member(s); or 2) providing travel, lodging, subsistence expenses or enrollment or course fees for the official and, if permitted, the official's family.

Date	Names of all Persons Entertained or Provided Travel, etc.	Description, Place, etc.	Sponsoring Employer	Amount
				\$
N/A Total expenses itemized on attached Memo Reports				

Continued on attached pages.

16. If a monetary or in-kind contribution exceeding \$25 was given or transmitted by the lobbyist to any of the following, itemize the contribution below or on a Memo Report: local and state candidates or elected officials; local and state officers or employees; political committees supporting or opposing any candidate, elected official, officer or employee or any local or state ballot proposition. If a contribution exceeding \$25 was given to the following, itemize the contribution below: a caucus political committee; a political party; or a grass roots lobbying campaign.

Date	Name of Individual or Committee Receiving Contribution	Source of Contribution	Amount
			\$
N/A Total contributions itemized on attached Memo Reports			

If contributions were made directly by a political action committee associated, affiliated or sponsored by your employer, show name of the PAC below. (Information reported by PAC on C-4 report need not be again included in this L-2 report.)

Continued on attached pages. PAC Name: _____

17. Expenditures for: a) political advertising supporting or opposing a state or local candidate or ballot measure; or b) public relations, telemarketing, polling or similar activities that directly or indirectly are lobbying-related must be itemized by amount, vendor or person receiving payment, and a brief description of the activity. Itemize each expenditure on an attached page that also shows lobbyist name and report date. Put the aggregate total of these expenditures on line 8.
18. Payments by the lobbyist for other lobbying expenses and services, including payments to subcontract lobbyists, expert witnesses and others retained to provide lobbying services or assistance in lobbying and payments for grass roots lobbying campaigns (except advertising/printing costs listed in Item 7).

Date	Recipient's Name and Address	Employer for Whom Expense was Incurred	Amount
			\$
<input type="checkbox"/> Continued on attached page.			

PUBLIC DISCLOSURE COMMISSION
711 CAPITOL WAY RM 206
PO BOX 40908
OLYMPIA WA 98504-0908
(360) 753-1111

L-2 Memo Report
9/95

Instructions: This Memo Report may be used by a lobbyist to notify a state elected official or other recipient of contributions, meals, travel expenses or educational benefits that have been provided during the preceding calendar month. The specific list of persons to whom a copy of this report must be delivered is shown below in the "Contributions" and "Meals, Travel, Seminars" sections. If the expenditures disclosed on this Memo Report do not also appear on the lobbyist's L-2 Report, a copy of this Memo Report must accompany the L-2 filing. See L-2 instruction manual for further details.

			PDC OFFICE USE		
TO:					
Recipient's Name*					
FROM:					
Lobbyist's Name					
Mailing Address					
City		State		Zip + 4	

This report is for the period _____ (Month) _____ (Year)	This report corrects or amends the report for _____ (Month) _____ (Year)	Business Telephone () - _____
--	--	--------------------------------

CONTRIBUTIONS to state or local candidate, elected official, or employee, legislative staff person or ballot issue committee.

Date Made	Amount or Value	Description (if in-kind)	Source of Contribution (Employer's Name or Own Funds)
	\$		

MEALS, TRAVEL, SEMINARS to a state elected official, including a legislator, or members of the official's immediate family. Disclose: a) expenditures totaling over \$50 on one occasion for food or beverages for the official and/or the official's family; or b) expenditures for providing permissible travel, lodging, subsistence expenses or enrollment or course fees for the official and the official's family.

Date Given	Amount or Value	Description	Source of Gift (Employer's Name or Own Funds)	Recipient (if family member)
	\$			

Lobbyist's Signature _____ Date _____

*Recipients of Contributions will report receipt of a cash donation on a C-3 report or in-kind on a Schedule B to the C-4 report; recipients of meals, travel and seminars will report receipt of these items on their annual F-1 statement.

PERMANENT

PUBLIC DISCLOSURE COMMISSION
711 CAPITOL WAY RM 206
PO BOX 40908
OLYMPIA WA 98504-0908
(360) 753-1111
TOLL FREE 1-877-601-2828

L2
1/02

PDC OFFICE USE

Lobbyist Monthly Expense Report
(as required by Chapter 397, 1995 Session Laws)

1. Lobbyist Name
Mailing Address
City State Zip + 4
New Address? [] Yes [] No

2. This report is for the period (Month) (Year)
This report corrects or amends the report for (Month) (Year)
Business Telephone () -

Table with 6 columns: Expense Category, TOTAL AMOUNT THIS MONTH, Amounts paid from lobbyist's own funds, and three Employer No. columns. Rows include Compensation, Personal Expenses, Entertainment, Contributions, Advertising, Political Ads, Other Expenses, and Total Compensation.

(Attach additional page(s) if you lobby for more than three employers.)

11. EMPLOYERS' NAMES No. (B), (C), (D)
12. Subject matter of proposed legislation or other legislative activity or rulemaking the lobbyist was supporting or opposing.
Subject Matter, Issue or Bill No. Legislative Committee or State Agency Considering Matter Employer Represented

Continued on attached pages
13. Of the time spent lobbying, what percentage was devoted to lobbying: the Legislature % State Agencies %

14. TERMINATION: (COMPLETE THIS ITEM ONLY IF YOU WISH TO TERMINATE YOUR REGISTRATION)
Date registration ends: Employer's name:
I understand that an L-2 report is required for any month or portion thereof in which I am a registered lobbyist. I also understand that once I have terminated my registration, I must file a new registration prior to lobbying for that employer in the future. All registrations terminate automatically on the second Monday in January of each odd numbered year.

CERTIFICATION
I certify that this report is true and complete to the best of my knowledge. LOBBYIST SIGNATURE DATE

CONTINUE ON REVERSE

PERMANENT

Lobbyist Name _____ Reporting Period _____ (Month) _____ (Year)

15. Itemize all of the following expenditures that were incurred by lobbyist or lobbyist employer(s) for legislators, state officials, state employees and members of their immediate families. Show the actual amount incurred for each individual or the amount fairly attributed to each.
- Entertainment expenditures exceeding \$25 per occasion (including lobbyist's expense) for meals, beverages, tickets, passes, or for other forms of entertainment.
 - Travel, lodging and subsistence expenses in connection with a speech, presentation, appearance, trade mission, seminar or educational program.
 - Enrollment and course fees in connection with a seminar or educational program.
- Lobbyists must provide an elected official with a copy of the L-2 or Memo Report if the lobbyist reports: 1) spending on one occasion over \$50 for food or beverages for the official and/or his or her family member(s); or 2) providing travel, lodging, subsistence expenses or enrollment or course fees for the official and, if permitted, the official's family.

Date	Names of all Persons Entertained or Provided Travel, etc.	Description, Place, etc.	Sponsoring Employer	Amount
				\$
N/A	Total expenses itemized on attached Memo Reports			

Continued on attached pages.

16. If a monetary or in-kind contribution exceeding \$25 was given or transmitted by the lobbyist to any of the following, itemize the contribution below or on a Memo Report: local and state candidates or elected officials; local and state officers or employees; political committees supporting or opposing any candidate, elected official, officer or employee or any local or state ballot proposition. If a contribution exceeding \$25 was given to the following, itemize the contribution below: a caucus political committee; a political party; or a grass roots lobbying campaign.

Date	Name of Individual or Committee Receiving Contribution	Source of Contribution	Amount
			\$
N/A	Total contributions itemized on attached Memo Reports		

If contributions were made directly by a political action committee associated, affiliated or sponsored by your employer, show name of the PAC below. (Information reported by PAC on C-4 report need not be again included in this L-2 report.)


Continued on attached pages. PAC Name: _____

17. Expenditures for: a) political advertising supporting or opposing a state or local candidate or ballot measure; or b) public relations, telemarketing, polling or similar activities that directly or indirectly are lobbying-related must be itemized by amount, vendor or person receiving payment, and a brief description of the activity. Itemize each expenditure on an attached page that also shows lobbyist name and report date. Put the aggregate total of these expenditures on line 8.
18. Payments by the lobbyist for other lobbying expenses and services, including payments to subcontract lobbyists, expert witnesses and others retained to provide lobbying services or assistance in lobbying and payments for grass roots lobbying campaigns (except advertising/printing costs listed in Item 7).

Date	Recipient's Name and Address	Employer for Whom Expense was Incurred	Amount
			\$

Continued on attached page.

PERMANENT

PUBLIC DISCLOSURE COMMISSION

711 CAPITOL WAY RM 206
PO BOX 40908
OLYMPIA WA 98504-0908
(360) 753-1111
TOLL FREE 1-877-601-2828

L-2 Memo Report

1/02

Instructions: This Memo Report may be used by a lobbyist to notify a state elected official or other recipient of contributions, meals, travel expenses or educational benefits that have been provided during the preceding calendar month. The specific list of persons to whom a copy of this report must be delivered is shown below in the "Contributions" and "Meals, Travel, Seminars" sections. If the expenditures disclosed on this Memo Report do not also appear on the lobbyist's L-2 Report, a copy of this Memo Report must accompany the L-2 filing. See L-2 instruction manual for further details.

<p>TO: _____ Recipient's Name*</p> <p>FROM: _____ Lobbyist's Name</p> <p>_____ Mailing Address</p> <p>_____ City State Zip + 4</p>	<p>PDC OFFICE USE</p>
--	------------------------------

This report is for the period _____ (Month) (Year)	This report corrects or amends the report for _____ (Month) (Year)	Business Telephone () -
---	---	-----------------------------

CONTRIBUTIONS to state or local candidate, elected official, or employee, legislative staff person or ballot issue committee.

Date Made	Amount or Value	Description (if in-kind)	Source of Contribution (Employer's Name or Own Funds)
	\$		

MEALS, TRAVEL, SEMINARS to a state elected official, including a legislator, or members of the official's immediate family. Disclose: a) expenditures totaling over \$50 on one occasion for food or beverages for the official and/or the official's family; or b) expenditures for providing permissible travel, lodging, subsistence expenses or enrollment or course fees for the official and the official's family.

Date Given	Amount or Value	Description	Source of Gift (Employer's Name or Own Funds)	Recipient (if family member)
	\$			

*Recipients of Contributions will report receipt of a cash donation on a C-3 report or in-kind on a Schedule B to the C-4 report; recipients of meals, travel and seminars will report receipt of these items on their annual F-1 statement.

 Lobbyist's Signature Date

PERMANENT

AMENDATORY SECTION (Amending Order 88-02, filed 7/1/88)

WAC 390-20-105 Lobbyist's employer—Meaning—

Examples. (1) The term "lobbyist's employer" includes every person who engages or utilizes the services of any other person to lobby, upon an agreement express or implied, for compensation or for other consideration, as that term is defined in WAC 390-05-220. A person is a lobbyist's employer within the meaning of the act when:

(a) Other persons are actually employed by or receive consideration from such person in whole or in part for lobbying;

(b) Officers or ~~employees~~ ~~employers~~ **employers** of such person, lobby for or on behalf of such person, whether such duties are expressed in the corporate or partnership articles or bylaws or other writings of such employer, or in a written or oral contract, or exist by reason of a mutual understanding;

(c) The lobbying services are secured or arranged for through an authorized representative.

(2) A person shall not be deemed to be a lobbyist's employer solely because an employee of such person engages in lobbying.

AMENDATORY SECTION (Amending WSR 01-10-053, filed 4/26/01, effective 6/1/01)

WAC 390-24-200 Descriptions of real property. (1)

For the purposes of reporting real property as required by RCW 42.17.241 ~~((f))~~ ~~(1)(h)(-))~~ through (k), the filer shall list the street address of each parcel, the assessor's parcel number, the abbreviated legal description appearing on property tax statements, or the complete legal description.

(2) Each property description shall be followed by the name of the county in which the property is located.

AMENDATORY SECTION (Amending WSR 91-24-011, filed 11/22/91, effective 12/23/91)

WAC 390-12-040 Public disclosure commission—

Description of central and field organization. (1) The public disclosure commission is a five member commission appointed by the governor with the consent of the senate. The commission is assisted by a staff consisting of an executive director and such other employees as are necessary.

(2) The administrative office of the commission is located at ~~((Public Disclosure Commission))~~ **711 Capitol Way, Room ((403)) 206, Evergreen Plaza Building, Olympia, Washington.**

(3) Mailings to the commission should be addressed as follows: Public Disclosure Commission, ~~((711 Capitol Way, Rm 403,))~~ PO Box 40908, Olympia, WA 98504-0908.

AMENDATORY SECTION (Amending WSR 99-12-059, filed 5/27/99, effective 6/27/99)

WAC 390-14-025 Requests for public records. (1) In accordance with requirements of chapter 42.17 RCW that agencies provide full public access to public records, protect

public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, requests to inspect or copy public records may be made in person, by letter, by telephone or by electronic means.

The commission office is located at 711 Capitol Way, ~~((Suite 403))~~ **Room 206, Evergreen Plaza Building, Olympia, Washington.** The mailing address is: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908. Telephone number: (360) 753-1111. **Toll-free telephone number: 1-877-601-2828.** Facsimile number: (360) 753-1112. Electronic mail: pdcc@pdcc.wa.gov.

(2) Whenever a member of the public requests assistance, the staff member to whom the request is made shall assist the member of the public in identifying the appropriate public record.

AMENDATORY SECTION (Amending WSR 99-12-063, filed 5/27/99, effective 6/27/99)

WAC 390-14-045 Records index. (1) The commission has established and implemented a system of indexing for the identification and location of the following records:

(a) All records issued before July 1, 1990, for which the commission has maintained an index.

(b) Final adjudicative orders and declaratory orders issued after June 30, 1990, that contain an analysis or decision of substantial importance to the commission in carrying out its duties.

(c) Interpretive and policy statements that were issued after June 30, 1990.

(2) Final and declaratory orders shall be evaluated by the executive director or executive director's designee. Those orders which are determined to have substantial importance shall be indexed.

(3) Final orders shall be indexed by the name of the person against whom the order was issued and by citation to the law involved.

(4) Declaratory orders shall be indexed by number, subject matter, phrase describing the issue or holding and citation to the law involved.

(5) Interpretive statements and policy statements shall be indexed by number and subject matter.

(6) The indexes are available for public inspection and copying weekdays, excluding legal holidays, between 8:00 a.m. and 5:00 p.m. at the Public Disclosure Commission, 711 Capitol Way, ~~((Suite 403))~~ **Room 206, Evergreen Plaza Building, Olympia, Washington 98504-0908.**

(7) The indexes shall be updated quarterly.

AMENDATORY SECTION (Amending WSR 99-22-081, filed 11/2/99, effective 12/3/99)

WAC 390-16-032 Forms—Auction report. The official form for reporting items donated and sold at auctions, as required by RCW 42.17.090 (1)(b), is designated "Attachment Au," revised ((12/99)) 1/02. This attachment shall accompany each C-3 which reports the receipt of funds from an auction. Copies of this form are available at the Commission Office, 711 Capitol Way, Room ((403)) 206, Evergreen Plaza Building, P.O. Box 40908, Olympia, Washington, 98504-0908.

AUCTION REPORT

Use this form as an attachment to C3 to report items donated and sold at auctions. Please see the reverse for an example of a report.

ATTACHMENT Au
TO C3 (12/99)

Page

Candidate or Committee Name (Do not abbreviate. Use full name.)

Date Auction was held

Item No. Description	Name and Address	P R I	G E N	Fair Market Value	Sale Price	Amount Over Fair Market Value	Aggregate Total*
	Contributor						
	*Occupation and Employer:						
	Buyer						
	*Occupation and Employer:						
	Contributor						
	*Occupation and Employer:						
	Buyer						
	*Occupation and Employer:						
	Contributor						
	*Occupation and Employer:						
	Buyer						
	*Occupation and Employer:						
	Contributor						
	*Occupation and Employer:						
	Buyer						
	*Occupation and Employer:						

*If an individual – whether a contributor or buyer – has given \$100 or more in the aggregate to the campaign, show his or her occupation and the name, city & state of his or her employer.

Cash receipts, this page	→
Total, sale price column	→
Total from attached pages	→
Total cash receipts	→
Put this amount in part 1d of C3 report	

I certify that the information herein is true, correct and complete to the best of my knowledge.
Treasurer's signature _____ Date _____

PERMANENT

INSTRUCTIONS

Item No./Description: As each item to be auctioned is received, assign it a number and a brief description.

Contributor: The person or organization that donates an item or service to be auctioned. If the campaign purchases items for auction, state "purchased by committee" under contributor's name. If auction is held by state office candidate, designate which election (PRI or GEN) contribution is for. Contribution amount is fair market value of item or service and is subject to any applicable contribution limit. Adjust fair market value amount if sold for less than initial fair market value. See No. 2 below.

Buyer: The person who buys the item or service being auctioned. If auction is held by state office candidate, designate which election (PRI or GEN) buyer is giving to when purchase price exceeds fair market value amount.

Fair Market Value: The retail value of the article. Adjust if amount paid is less than fair market value. See No. 2 below.

Sale Price: The amount the buyer paid for the item or service.

Amount Over Fair Market Value: The amount the sale price exceeds fair market value. If sale price is less than or equal to the fair market value, leave blank. The amount paid in excess of fair market value is a contribution from the buyer and is subject to any applicable contribution limit.

Aggregate Total:

Contributor: Fair market value of the donation plus all previous contributions made during campaign (for state office candidates, all contributions made for election designated; for continuing political committees, all contributions made during calendar year).

Buyer: Amount over fair market value plus all previous contributions made during campaign (for state office candidates, all contributions made for election designated; for continuing political committees, all contributions made during calendar year).

If Cash is Received: RCW 42.17.740 says that a political committee must make all of its monetary contributions by check (or other written instrument). However, individuals, businesses, unions and other entities may use currency to make small contributions. The maximum amount of a currency contribution is periodically adjusted by PDC. See WAC 390-05-400 or contact PDC. If the campaign receives cash contributions, each of which does not exceed the maximum, but is more than \$50, prepare a receipt – signed by the donor and either the candidate, treasurer or deputy treasurer – and keep it as part of the campaign records.

Example of Auction Report

Candidate or Committee Name (Do not abbreviate. Use full name.)					Date Auction was held		
Sam Smith for State Senate					09/14/XXXX		
Item No. Description	Name and Address	P R I	G E N	Fair market value	Sale price	Amount over fair market value	Aggregate Total*
No. 1 Use of Beach Cabin for Week	Contributor John Doe 200 "A" Street, Seattle, WA 98101 *Occupation and Employer: Accountant; CPA Firm, Seattle, WA	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$ 500.00			\$ 500.00
	Buyer Mary Smith 400 "B" Street, Tacoma, WA 98402 *Occupation and Employer: Homemaker	<input type="checkbox"/>	<input checked="" type="checkbox"/>		\$ 600.00	\$ 100.00	\$ 100.00
No. 2 Dinner For 4	Contributor Sam Brown 123 Military Road, Anytown, WA 98101 *Occupation and Employer: Contractor, Sam's Decks, Anytown, WA	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$ 200.00			\$ 150.00
	Buyer Tom Mix Rt. 2, Box 1, Saddle Mt., WA 98900 *Occupation and Employer: Manager, ABC Retail, Saddle Mt., WA	<input type="checkbox"/>	<input type="checkbox"/>		\$ 150.00		
Cash receipts, this page							
Total, sale price column					→	\$ 750.00	
Total from attached pages					→	\$ 0	
Total cash receipts					→	\$ 750.00	
Put this amount in part 1d of C3 report					→	\$ 750.00	

PERMANENT

AUCTION REPORT

Use this form as an attachment to C3 to report items donated and sold at auctions. Please see the reverse for an example of a report.

ATTACHMENT TO C3 **Au**
(1/02)

Page _____

Candidate or Committee Name (Do not abbreviate. Use full name.)

Date Auction was held

Item No. Description	Name and Address	P R I	G E N	Fair Market Value	Sale Price	Amount Over Fair Market Value	Aggregate Total*
	Contributor						
	*Occupation and Employer:						
	Buyer						
	*Occupation and Employer:						
	Contributor						
	*Occupation and Employer:						
	Buyer						
	*Occupation and Employer:						
	Contributor						
	*Occupation and Employer:						
	Buyer						
	*Occupation and Employer:						
	Contributor						
	*Occupation and Employer:						
	Buyer						
	*Occupation and Employer:						

*If an individual – whether a contributor or buyer – has given more than \$100 in the aggregate to the campaign, show his or her occupation and the name, city & state of his or her employer.

Cash receipts, this page	→
Total, sale price column	→
Total from attached pages	→
Total cash receipts (Put this amount in part 1d of C3 report)	→

I certify that the information herein is true, correct and complete to the best of my knowledge.
Treasurer's signature _____ Date _____

PERMANENT

INSTRUCTIONS

Item No./Description: As each item to be auctioned is received, assign it a number and a brief description.

Contributor: The person or organization that donates an item or service to be auctioned. If the campaign purchases items for auction, state "purchased by committee" under contributor's name. If auction is held by state office candidate, designate which election (PRI or GEN) contribution is for. Contribution amount is fair market value of item or service and is subject to any applicable contribution limit. Adjust fair market value amount if sold for less than initial fair market value. See No. 2 below.

Buyer: The person who buys the item or service being auctioned. If auction is held by state office candidate, designate which election (PRI or GEN) buyer is giving to when purchase price exceeds fair market value amount.

Fair Market Value: The retail value of the article. Adjust if amount paid is less than fair market value. See No. 2 below.

Sale Price: The amount the buyer paid for the item or service.

Amount Over Fair Market Value: The amount the sale price exceeds fair market value. If sale price is less than or equal to the fair market value, leave blank. The amount paid in excess of fair market value is a contribution from the buyer and is subject to any applicable contribution limit.

Aggregate Total:

Contributor: Fair market value of the donation plus all previous contributions made during campaign (for state office candidates, all contributions made for election designated; for continuing political committees, all contributions made during calendar year).

Buyer: Amount over fair market value plus all previous contributions made during campaign (for state office candidates, all contributions made for election designated; for continuing political committees, all contributions made during calendar year).

If Cash is Received: RCW 42.17.740 says that a political committee must make all of its monetary contributions by check (or other written instrument). However, individuals, businesses, unions and other entities may use currency to make small contributions. The maximum amount of a currency contribution is periodically adjusted by PDC. See WAC 390-05-400 or contact PDC. If the campaign receives cash contributions, each of which does not exceed the maximum, but is more than \$50, prepare a receipt – signed by the donor and either the candidate, treasurer or deputy treasurer – and keep it as part of the campaign records.

Example of Auction Report

Candidate or Committee Name (Do not abbreviate. Use full name.)				Date Auction was held			
Sam Smith for State Senate				09/14/XXXX			
Item No. Description	Name and Address	PRI	GEN	Fair market value	Sale price	Amount over fair market value	Aggregate Total*
No. 1 Use of Beach Cabin for Week	Contributor John Doe 200 "A" Street, Seattle, WA 98101 *Occupation and Employer: Accountant; CPA Firm, Seattle, WA	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$ 500.00			\$ 500.00
	Buyer Mary Smith 400 "B" Street, Tacoma, WA 98402 *Occupation and Employer:	<input type="checkbox"/>	<input checked="" type="checkbox"/>				
No. 2 Dinner For 4	Contributor Sam Brown 123 Military Road, Anytown, WA 98101 *Occupation and Employer: Contractor; Sam's Decks, Anytown, WA	<input type="checkbox"/>	<input checked="" type="checkbox"/>	\$ 200.00			\$ 150.00
	Buyer Tom Mix Rt. 2, Box 1, Saddle Mt., WA 98900 *Occupation and Employer: Manager; ABC Retail, Saddle Mt., WA	<input type="checkbox"/>	<input type="checkbox"/>				
				Cash receipts, this page			
				Total, sale price column		\$ 750.00	
				Total from attached pages		\$ 0	
				Total cash receipts		\$ 750.00	
				Put this amount in part 1d of C3 report			

PERMANENT

AMENDATORY SECTION (Amending WSR 94-05-011, filed 2/3/94, effective 3/6/94)

WAC 390-16-033 Earmarked contributions—Reporting—Form. The official form for reporting the details surrounding an earmarked contribution, as required by RCW 42.17.125, is designated "Special Report E," revised ((11/93)) 1/02. This report shall be filed within two working days of receiving a contribution earmarked for another candidate or committee. Copies of this form are available at the Commission Office, Room ((403)) 206, Evergreen Plaza Building, Olympia, Washington 98504-0908.

PDC DISCLOSURE COMMISSION
711 CAPITOL WAY RM 206
PO BOX 40908
OLYMPIA WA 98504-0908
(360) 763-1111
TOLL FREE 1-877-601-2828

EARMARKED CONTRIBUTION

SPECIAL REPORT E
(11/93)

PDC OFFICE USE
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D

Name of committee filing this report (Candidate or committee which received a contribution earmarked for another.)

Address

City County Zip

Original source of earmarked contribution

Name

Address

City State Zip

Contribution Date	Amount/Value	Description (Fully describe in-kind contributions)	If contribution is to benefit a state office candidate, designate whether it's for Primary or General Election. Primary _____ General _____

Name of candidate or committee to be benefited

Address

City County Zip

If candidate, what office is the person seeking? _____

1. Certification: I certify that the information contained herein is true, complete and correct to the best of my knowledge.

Treasurer's signature _____ Date _____

The purpose of this report is to highlight receipt of an earmarked contribution. (That is, a contribution given to one candidate or political committee with the understanding, intent or instruction that it be used to benefit another candidate or committee.) This report is filed in addition to any other required reporting of the transaction.

A separate "Special Report E" is filed for each earmarked contribution received by any candidate or political committee.

File this report within two working days of receiving the earmarked contribution. Mail or deliver the original to PDC. Send a copy to the benefiting candidate or committee, also within two working days.

NOTE: Candidates for legislative and statewide executive office are subject to state contribution limits. Earmarked contributions count toward the applicable limit and are attributed to the original source of the contribution (unless another person controlled the choice of recipient). It's a violation for anyone to accept a contribution in excess of the relevant limit. Verify with the campaign of a legislative or statewide office candidate before accepting a contribution earmarked for the benefit of such a candidate.



EARMARKED CONTRIBUTION

SPECIAL REPORT 1/02	E	PDC OFFICE USE
P O S T M A R K		R E C E I V E D

Name of committee filing this report (Candidate or committee which received a contribution earmarked for another.)

Address

City County Zip

Original source of earmarked contribution

Name

Address

City State Zip

Contribution Date	Amount/Value	Description (Fully describe in-kind contributions)	If contribution is to benefit a state office candidate, designate whether it's for Primary or General Election. Primary _____ General _____

Name of candidate or committee to be benefited

Address

City County Zip

If candidate, what office is the person seeking? _____

Certification: I certify that the information contained herein is true, complete and correct to the best of my knowledge.

Treasurer's signature _____ Date _____

The purpose of this report is to highlight receipt of an earmarked contribution. (That is, a contribution given to one candidate or political committee with the understanding, intent or instruction that it be used to benefit another candidate or committee.) This report is filed in addition to any other required reporting of the transaction.

A separate "Special Report E" is filed for each earmarked contribution received by any candidate or political committee.

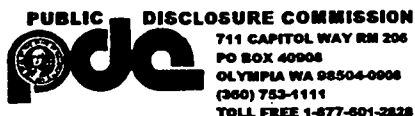
File this report within two working days of receiving the earmarked contribution. Mail or deliver the original to PDC. Send a copy to the benefiting candidate or committee, also within two working days.

NOTE: Candidates for legislative and statewide executive office are subject to state contribution limits. Earmarked contributions count toward the applicable limit and are attributed to the original source of the contribution (unless another person controlled the choice of recipient). It's a violation for anyone to accept a contribution in excess of the relevant limit. Verify with the campaign of a legislative or statewide office candidate before accepting a contribution earmarked for the benefit of such a candidate.

PERMANENT

AMENDATORY SECTION (Amending WSR 94-05-011, filed 2/3/94, effective 3/6/94)

WAC 390-16-050 Forms for contributions and expenditures of political committees not domiciled in Washington state. The official form for the report of contributions and expenditures of political committees not domiciled in Washington state or otherwise not required to report is designated "C-5," revised ((11/93)) 1/02. Copies of this form are available at the Commission Office, Room ((403)) 206, Evergreen Plaza Building, Olympia, Washington 98504-0908. Any attachments shall be on 8 1/2" x 11" white paper.



FORM C5 (11/83)

POST RECEIVED PDC OFFICE USE

OUT OF STATE OR FEDERAL COMMITTEE CONTRIBUTION TO WASHINGTON CANDIDATES OR COMMITTEES

1. Name and address of committee making contribution

2. Check appropriate box

- Checkboxes for: 'This is the first report submitted during 19__' and 'This shows new expenditures, contributions or information changed from reports submitted previously this calendar year.'

3. Explain briefly the purpose or affiliation of the committee. (e.g., A PAC of employees of XYZ Trade Assn., or the election committee of US Senator John Doe, or a PAC of members of the United Worker's Union.)

4. Officers or responsible leaders of committee

Name and address

Title

5. Candidate contributions: List each Washington candidate for state or local office to whom you have made a contribution of more than \$50.00.

Candidate's name Office sought Political party Date Amount given

6. Ballot measure committee contributions: List each Washington committee supporting or opposing a ballot measure to whom you have made a contribution of more than \$50.00.

Committee name and address Ballot number For or against? Date Amount given

7. Other contributions and expenditures: List each other contribution or expenditure of more than \$50.00 made to or on behalf of any Washington state or local candidate, ballot measure or political committee.

Recipient's name and address Purpose Date Amount given

Check here [] if continued on attached sheet

8. Total contributions and expenditures (Add parts 5, 6, 7)

CAUTION: Failure to report transactions within ten days will cause the funds to forfeit to Washington State.

9. Contributions received from Washington residents:

List all contributions of more than \$25.00 in aggregate to this out of state, federal or other committee during the current calendar year from Washington residents or corporations with a place of business in Washington.

Name and address	Date	Amount
<div style="position: absolute; top: 0; left: 0; width: 100%; height: 100%; border-left: 2px solid black; border-bottom: 2px solid black; transform: rotate(45deg);"></div>		

Check here if continued on attached sheet

10. Eligibility to Give to State Office Candidates: During the six months prior to making a contribution to a legislative or statewide executive candidate, your committee must have received contributions of \$10 or more from at least ten persons registered to vote in Washington State.

A check here indicates your awareness of and pledge to comply with this provision. Absence of a check mark means your committee does not qualify to give to legislative and statewide executive office candidates.

11. Certification: I certify the information contained in this report is true, complete and correct to the best of my knowledge.

Signature of Committee Official

Name - Typed or Printed

Title

Daytime Telephone No.: ()

(Be sure to notify each contribution recipient that you have filed this report, in order that they are aware they may spend the contribution given to them.)

INSTRUCTIONS

(Statutory reference: RCW 42.17.090 (1)(K))

WHO MUST REPORT

A political committee not domiciled in the State of Washington, a federal committee or other committee not required to register under Washington law, which has made contributions to a state or local candidate or political committee in Washington state.

WHEN TO REPORT

A C-5 report is due within ten days of a Washington state candidate or political committee receiving a contribution of more than \$50 from an out-of-state or federal PAC. After filing an initial C-5 report, subsequent reports during the same calendar year may be filed by letter updating or amending the information previously reported. These follow-up reports are also due within ten days of the contribution's receipt.

SEND REPORT TO

Public Disclosure Commission
711 Capitol Way, Room 403
PO Box 40906
Olympia, WA 98504-0906

VIOLATIONS AND PENALTIES

- Candidates for legislative office have a contribution limit of \$500 per election. Candidates for statewide executive office have a limit of \$1,000 per election. Each primary and general is a separate election.
- It is a violation of law for any person to make, or for any political committee or any local or judicial candidate to accept from any one person, contributions in the aggregate exceeding \$5,000 within 21 days of a general election.
- Failure to report contributions and file the information required by this report within 10 days after the Washington candidate or committee receives the funds will cause the funds to be returned or forfeited to the state.

PERMANENT



FORM C5 1/02	P O S T R E C E I V E D	PDC OFFICE USE
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OUT OF STATE OR FEDERAL COMMITTEE CONTRIBUTION TO WASHINGTON CANDIDATES OR COMMITTEES

1. Name and address of committee making contribution	2. Check appropriate box <input type="checkbox"/> This is the first report submitted during 19____ <input type="checkbox"/> This shows new expenditures, contributions or information changed from reports submitted previously this calendar year.
--	---

3. Explain briefly the purpose or affiliation of the committee. (e.g., A PAC of employees of XYZ Trade Assn., or the election committee of US Senator John Doe, or a PAC of members of the United Worker's Union.)

4. Officers or responsible leaders of committee	Title
Name and address	

5. Candidate contributions: List each Washington candidate for state or local office to whom you have made a contribution of more than \$50.00.

Candidate's name	Office sought	Political party	Date	Amount given

6. Ballot measure committee contributions: List each Washington committee supporting or opposing a ballot measure to whom you have made a contribution of more than \$50.00.

Committee name and address	Ballot number	For or against?	Date	Amount given

7. Other contributions and expenditures: List each other contribution or expenditure of more than \$50.00 made to or on behalf of any Washington state or local candidate, ballot measure or political committee.

Recipient's name and address	Purpose	Date	Amount given

Check here if continued on attached sheet

8. Total contributions and expenditures (Add parts 5, 6, 7)

CAUTION: Failure to report transactions within ten days will cause the funds to forfeit to Washington State.

CONTINUE ON REVERS.

PERMANENT

9. Contributions received from Washington residents:

List all contributions of more than \$25.00 in aggregate to this out of state, federal or other committee during the current calendar year from Washington residents or corporations with a place of business in Washington.

Name and address	Date	Amount

Check here if continued on attached sheet

10. Eligibility to Give to State Office Candidates: During the six months prior to making a contribution to a legislative or statewide executive candidate, your committee must have received contributions of \$10 or more from at least ten persons registered to vote in Washington State.

A check here indicates your awareness of and pledge to comply with this provision. Absence of a check mark means your committee does not qualify to give to legislative and statewide executive office candidates.

1. Certification: I certify the information contained in this report is true, complete and correct to the best of my knowledge.

Signature of Committee Official

Name - Typed or Printed

Title

Daytime Telephone No.: ()

Be sure to notify each contribution recipient that you have filed this report, in order that they are aware they may spend the contribution given to them.)

INSTRUCTIONS

(Statutory reference: RCW 42.17.090 (1)(K))

WHO MUST REPORT

A political committee not domiciled in the State of Washington, a federal committee or other committee not required to register under Washington law, which has made contributions to a state or local candidate or political committee in Washington state.

WHEN TO REPORT

A C-5 report is due within ten days of a Washington state candidate or political committee receiving a contribution of more than \$50 from an out-of-state or federal PAC. After filing an initial C-5 report, subsequent reports during the same calendar year may be filed by letter updating or amending the information previously reported. These follow-up reports are also due within ten days of the contribution's receipt.

SEND REPORT TO

Public Disclosure Commission
711 Capitol Way, Room 206
PO Box 40908
Olympia, WA 98504-0908

VIOLATIONS AND PENALTIES

- Candidates for legislative office have a contribution limit of \$500 per election. Candidates for statewide executive office have a limit of \$1,000 per election. Each primary and general is a separate election.
- It is a violation of law for any person to make, or for any political committee or any local or judicial candidate to accept from any one person, contributions in the aggregate exceeding \$5,000 within 21 days of a general election
- Failure to report contributions and file the information required by this report within 10 days after the Washington candidate or committee receives the funds will cause the funds to be returned or forfeited to the state.

PERMANENT

AMENDATORY SECTION (Amending WSR 98-01-062, filed 12/11/97, effective 1/11/98)

WAC 390-20-110 Forms for lobbyist employers report. The official form for statement by employers of registered lobbyists as required by RCW 42.17.180 is designated "L-3," revised ((1/98)) 1/02. Copies of this form are available at the Commission Office 711 Capitol Way, Room ((403)) 206, Evergreen Plaza Building, PO Box 40908, Olympia, Washington, 98504-0908. Any attachments shall be on 8-1/2" x 11" white paper.

PUBLIC DISCLOSURE COMMISSION
711 CAPITOL WAY RM 206
PO BOX 40908
OLYMPIA WA 98504-0908
(360) 753-1111
TOLL FREE 1-877-601-2828

**Employer's
Lobbying Expenses**

L3
1/98

THIS SPACE FOR OFFICE USE

1. Employer's Name (Use complete company, association, union or entity name.) _____

Attention (Identify person to whom inquiries about the information below should be directed; NOT the lobbyist.) _____

Mailing Address _____ Telephone _____
 () _____

City _____ State _____ Zip + 4 _____

THIS REPORT MUST BE FILED BY THE LAST DAY OF FEBRUARY. Include expenditures made and accrued during the previous calendar year for lobbying the Washington State Legislature and/or any state agency. Complete all sections. Use "none" or "0" when applicable.

2. Identify each of your lobbyists/lobbying firms below. In column 1, show the full amount of salary or fee each earned for lobbying. In column 2, show the full amount paid (plus obligated) for other lobbying related expenses that were made by or through the lobbyist and reported by the lobbyist on the monthly L-2 report (e.g., contributions to legislative candidates, reimbursement for entertainment expenses, etc.). Compute the subtotals across and down the columns; put the grand total of expenses incurred by or through lobbyists in the space designated.

Names of Registered Lobbyists (if payments were to lobbying firm, list firm name)	Col 1-Salary	Col 2-Other	Total Amount
	\$	\$	\$
Total From Attached Page			

Information continued on attached pages

Total Expenses By or Through Lobbyists \$ _____

DO NOT INCLUDE EXPENDITURES ALREADY ACCOUNTED FOR IN ITEM 2 ABOVE when completing Items 3 through 7 below.

3. Other expenditures made by the employer for lobbying purposes. Show total expenditures made/accrued:
- a. to vendors on behalf of or in support of registered lobbyists (e.g., entertainment credit card purchases); \$ _____
 - b. to or on behalf of expert witnesses or others retained to provide lobbying services, who offer specialized knowledge or expertise that assists the employer's lobbying effort; _____
 - c. for entertainment, tickets, passes, travel expenses (e.g., transportation, meals, lodging, etc.) and enrollment or course fees provided to legislators, state officials, state employees and members of their immediate families; (Also complete Item 9.) _____
 - d. for composing, designing, producing and distributing informational materials for use primarily to influence legislation; and _____
 - e. for grass roots lobbying expenses, including those previously reported by employer on Form L-6, and payments for lobbying communications to clients/customers (other than to corporate stockholders and members of an organization or union). _____
4. Political contributions to candidates for legislative or statewide executive office, committees supporting or opposing these candidates, or committees supporting or opposing statewide ballot measures. (Also complete Item 10.)
- a. Contributions made directly by the employer, including those previously reported on PDC Form L-3c. _____
 - b. If contributions were made by a political committee associated, affiliated or sponsored by the employer, show the PAC name below. (Information reported by the PAC on C-4 reports need not be again included as part of this L-3 report.) _____
 Name of PAC _____
5. Independent expenditures supporting or opposing a candidate for legislative or statewide executive office or a statewide ballot measure. (Also complete Item 11.) _____
6. Expenditures to or on behalf of legislators, state officials, their spouses and dependents for the purpose of influencing, honoring or benefiting the legislator or official. (Normal course of business payments are not reportable.) (Also complete Item 14.) _____
7. Other lobbying-related expenditures, whether through or on behalf of a registered lobbyist. Attach list itemizing each expense (i.e., show date, recipient, purpose and amount). Do not include payments accounted for above. _____

Total Lobbying Expenses \$ _____
(Items 2 thru 7)

8. This report must be certified by the president, secretary-treasurer or similar office of lobbying employer.

Certification: I certify that this report is true, complete and correct to the best of my knowledge. _____

Printed Name and Title of Officer: _____

Signature of Employer Officer _____ Date _____

CONTINUE ON REVERSE

PERMANENT

Employer Name

Year report covers:

9. Entertainment, tickets, passes, travel expenses (including transportation, meals, lodging, etc.) and enrollment or course fees provided to legislators, state officials, state employees and members of their immediate families. See instruction manual for details.

Name and Title	Cost or Value \$	Date and Description of Expense
----------------	---------------------	---------------------------------

Information continued on attached pages

10. Contributions (not reported by the lobbyist) totalling over \$25 to a legislative or statewide executive office candidate, a committee formed to support or oppose one of these candidates or a committee supporting or opposing a statewide ballot measure. Do not list employer-affiliated PAC contributions.

Name of Recipient	Amount \$	Date (and, if In-Kind, Description)
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Information continued on attached pages

11. Independent expenditures in support of or opposition to a legislative or statewide executive office candidate or b) a statewide ballot proposition. See instruction manual for definition of "Independent expenditure."

Candidate's Name, Office Sought & Party or Ballot Proposition Number & Brief Description	Amount \$	Date and Description of Expense (Note if Support or Oppose)
--	--------------	--

Information continued on attached pages

12. Compensation of \$1,500 or more during the preceding calendar year for employment or professional services paid to state elected officials, successful candidates for state office and each member of their immediate family.

Name	Relationship to Candidate or Elected Official if Member of Family	Amount (Code)**	Description of Consideration or Services Exchanged for Compensation
------	---	-----------------	---

Information continued on attached pages

13. Compensation of \$1,500 or more during the preceding calendar year for professional services paid to any corporation, partnership, joint venture, association or other entity in which state elected official, successful state candidate or member of their immediate family hold office, partnership, directorship or ownership interest of 10% or more.

Firm Name	Person's Name	Amount (Code)**	Description of Consideration or Services Exchanged for Compensation
-----------	---------------	-----------------	---

Information continued on attached pages

14. Any expenditure, not otherwise reported, made directly or indirectly to a state elected official, successful candidate for state office or member of their immediate family, if made to honor, influence or benefit the person because of his or her official position.


Name	Amount \$	Date and Purpose
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Information continued on attached pages

****DOLLAR CODE AMOUNT**
 A - \$1 to \$2,999
 B - \$3,000 to \$14,999
 C - \$15,000 to \$29,999

****DOLLAR CODE AMOUNT**
 D - \$30,000 to \$74,999
 E - \$75,000 or more

PERMANENT

PUBLIC DISCLOSURE COMMISSION

 711 CAPITOL WAY RM 206
 PO BOX 40908
 OLYMPIA WA 98504-0908
 (360) 753-1111
 TOLL FREE 1-877-601-2828

Employer's Lobbying Expenses

L3
1/02

THIS SPACE FOR OFFICE USE

1. Employer's Name (Use complete company, association, union or entity name.)
 Attention (Identify person to whom inquiries about the information below should be directed; NOT the lobbyist.)
 Mailing Address Telephone
 () -
 City State Zip + 4

THIS REPORT MUST BE FILED BY THE LAST DAY OF FEBRUARY. Include expenditures made and accrued during the previous calendar year for lobbying the Washington State Legislature and/or any state agency. Complete all sections. Use "none" or "0" when applicable.

2. Identify each of your lobbyists/lobbying firms below. In column 1, show the full amount of salary or fee each earned for lobbying. In column 2, show the full amount paid (plus obligated) for other lobbying related expenses that were made by or through the lobbyist and reported by the lobbyist on the monthly L-2 report (e.g., contributions to legislative candidates, reimbursement for entertainment expenses, etc.). Compute the subtotals across and down the columns; put the grand total of expenses incurred by or through lobbyists in the space designated.

Names of Registered Lobbyists (if payments were to lobbying firm, list firm name)	Col 1-Salary	Col 2-Other	Total Amount
	\$	\$	\$
Total From Attached Page			
Total Expenses By or Through Lobbyists			\$

Information continued on attached pages

DO NOT INCLUDE EXPENDITURES ALREADY ACCOUNTED FOR IN ITEM 2 ABOVE when completing Items 3 through 7 below.

3. Other expenditures made by the employer for lobbying purposes. Show total expenditures made/accrued:
- a. to vendors on behalf of or in support of registered lobbyists (e.g., entertainment credit card purchases); \$ _____
 - b. to or on behalf of expert witnesses or others retained to provide lobbying services who offer specialized knowledge or expertise that assists the employer's lobbying effort; _____
 - c. for entertainment, tickets, passes, travel expenses (e.g., transportation, meals, lodging, etc.) and enrollment or course fees provided to legislators, state officials, state employees and members of their immediate families; (Also complete Item 9.) _____
 - d. for composing, designing, producing and distributing informational materials for use primarily to influence legislation; and _____
 - e. for grass roots lobbying expenses, including those previously reported by employer on Form L-6, and payments for lobbying communications to clients/customers (other than to corporate stockholders and members of an organization or union). _____
4. Political contributions to candidates for legislative or statewide executive office, committees supporting or opposing these candidates, or committees supporting or opposing statewide ballot measures. (Also complete Item 10.)
- a. Contributions made directly by the employer, including those previously reported on PDC Form L-3c. _____
 - b. If contributions were made by a political committee associated, affiliated or sponsored by the employer, show the PAC name below. (Information reported by the PAC on C-4 reports need not be again included as part of this L-3 report.)
 Name of PAC _____
5. Independent expenditures supporting or opposing a candidate for legislative or statewide executive office or a statewide ballot measure. (Also complete Item 11.) _____
6. Expenditures to or on behalf of legislators, state officials, their spouses and dependents for the purpose of influencing, honoring or benefiting the legislator or official. (Normal course of business payments are not reportable.) (Also complete Item 14.) _____
7. Other lobbying-related expenditures, whether through or on behalf of a registered lobbyist. Attach list itemizing each expense (i.e., show date, recipient, purpose and amount). Do not include payments accounted for above. _____
- Total Lobbying Expenses** \$ _____
(Items 2 thru 7)

8. This report must be certified by the president, secretary-treasurer or similar office of lobbying employer.

Certification: I certify that this report is true, complete and correct to the best of my knowledge. Printed Name and Title of Officer:	Signature of Employer Officer	Date

CONTINUE ON REVERSE

PERMANENT

Employer's Name

Year report covers:

Entertainment, tickets, passes, travel expenses (including transportation, meals, lodging, etc.) and enrollment or course fees provided to legislators, state officials, state employees and members of their immediate families. See instruction manual for details.

Name and Title	Cost or Value \$	Date and Description of Expense
] Information continued on attached pages		

0. Contributions (not reported by the lobbyist) totalling over \$25 to a legislative or statewide executive office candidate, a committee formed to support or oppose one of these candidates or a committee supporting or opposing a statewide ballot measure. Do not list employer-affiliated PAC contributions.

Name of Recipient	Amount \$	Date (and, if In-Kind, Description)
] Information continued on attached pages		

1. Independent expenditures in support of or opposition to a) a legislative or statewide executive office candidate or b) a statewide ballot proposition. See instruction manual for definition of "independent expenditure."

Candidate's Name, Office Sought & Party or Ballot Proposition Number & Brief Description	Amount \$	Date and Description of Expense (Note if Support or Oppose)
] Information continued on attached pages		

2. Compensation of \$1,500 or more during the preceding calendar year for employment or professional services paid to state elected officials, successful candidates for state office and each member of their immediate family.

Name	Relationship to Candidate or Elected Official if Member of Family	Amount (Code)**	Description of Consideration or Services Exchanged for Compensation
] Information continued on attached pages			

3. Compensation of \$1,500 or more during the preceding calendar year for professional services paid to any corporation, partnership, joint venture, association or other entity in which state elected official, successful state candidate or member of their immediate family hold office, partnership, directorship or ownership interest of 10% or more.

Firm Name	Person's Name	Amount (Code)**	Description of Consideration or Services Exchanged for Compensation
] Information continued on attached pages			

4. Any expenditure, not otherwise reported, made directly or indirectly to a state elected official, successful candidate for state office or member of their immediate family, if made to honor, influence or benefit the person because of his or her official position.

Name	Amount \$	Date and Purpose
] Information continued on attached pages		

**DOLLAR CODE AMOUNT

- A - \$1 to \$2,999
- B - \$3,000 to \$14,999
- C - \$15,000 to \$29,999

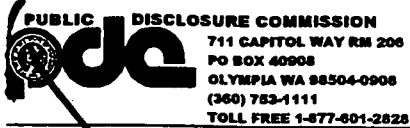
**DOLLAR CODE AMOUNT

- D - \$30,000 to \$74,999
- E - \$75,000 or more

PERMANENT

AMENDATORY SECTION (Amending WSR 90-16-083, filed 7/31/90, effective 8/31/90)

WAC 390-20-111 Form for lobbyist employers report of political contributions. The official form entitled "Employer of Lobbyist Monthly Political Contribution Report" as required by RCW 42.17.180 (2)(a) is designated "L-3c((-))" revised 1/02. Copies of this form are available at the Commission Office, Room ((403)) 206, Evergreen Plaza Building, Olympia, Washington, 98504-0908. Any attachments must be on 8-1/2" x 11" white paper.



Employer of Lobbyist Monthly Political Contribution Report

L-3c
6/90

THIS SPACE FOR OFFICE USE

Employer's Name (Use complete company, association, union or entity name.)

Mailing Address

City State Zip

Who Must File Report: Employers of lobbyists registered in Washington State making one or more contributions, including in-kind contributions, during one calendar month totaling more than \$100 to a candidate for state or local office, an elected state or local official, an officer or employee of any public agency, or a political committee. *Employer contributions made through and reported by a registered lobbyist or an employer-affiliated PAC are not reportable on an L-3c*

What Must Be Reported: Contributions, including a loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, or transfer of anything of value, including personal and professional services for less than full consideration. Contributions to campaign accounts and public office fund accounts are reportable.

When Is The Report Filed: Within 15 days after the last day of each calendar month during which reportable contributions were made. Reports are considered filed as of the post mark or hand-delivery date to PDC.

Itemize contributions that alone, or together with other contributions to the same recipient, total over \$100 during the calendar month specified above. If space provided is insufficient, use additional L-3c forms or 8 1/2" x 11" white paper.

Date of Contribution	Name and Address of Recipient	Description of Contribution*	Amount or Value*
			\$

*See next page for details.

Certification: I certify that the information contained herein is true and complete to the best of my knowledge.

Name and title of person authorized to sign on employer's behalf	Signature	Date
--	-----------	------

L3c

Description of Contribution

Monetary

Monetary contributions are those made in cash or by check, money order or other negotiable instrument. If total in amount column represents aggregate total given that recipient during the month (i.e., more than one contribution), indicate the date and amount of each contribution figured into the total.

For contributions given to incumbent candidates and elected officials, indicate whether the contribution is for the recipient's campaign account or public office account.

In-Kind

Donated goods or services qualify as reportable contributions. In-kind contributions include such things as discounts on products or services, free transportation, free or reduced-rate office space, personal services, polling services, professional assistance to campaign managers and help with preparation of political advertising.

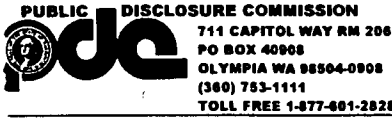
Amount or Value of Contribution

If the aggregate amount or value contributed to one recipient (candidate, elected official, agency officer or employee, or political committee) during a calendar month was over \$100 -- and the aggregate contribution was not reported by your lobbyist on his/her monthly report or the aggregate contribution was not made through and reported by your affiliated PAC -- put the total contributed in the Amount or Value column and provide the other required information.

In-Kind

Value in-kind contributions at the amount you actually paid for the donated item or service or, if no purchase was made, value them at their fair market value. Fair market value is the amount a well-informed buyer or lessee, willing but not obligated to buy or lease, would pay; and what a well-informed seller or lessor, willing but not obligated to sell or lease, would accept.

PERMANENT



Employer of Lobbyist Monthly Political Contribution Report

L-3C
1/02

THIS SPACE FOR OFFICE USE

Employer's Name (Use complete company, association, union or entity name.)

Mailing Address

City State Zip

Who Must File Report: Employers of lobbyists registered in Washington State making one or more contributions, including in-kind contributions, during one calendar month totaling more than \$100 to a candidate for state or local office, an elected state or local official, an officer or employee of any public agency, or a political committee. *Employer contributions made through and reported by a registered lobbyist or an employer-affiliated PAC are not reportable on an L-3c*

What Must Be Reported: Contributions, including a loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, or transfer of anything of value, including personal and professional services for less than full consideration. Contributions to campaign accounts and public office fund accounts are reportable.

When Is The Report Filed: Within 15 days after the last day of each calendar month during which reportable contributions were made. Reports are considered filed as of the post mark or hand-delivery date to PDC.

Itemize contributions that alone, or together with other contributions to the same recipient, total over \$100 during the calendar month specified above. If space provided is insufficient, use additional L-3c forms or 8 1/2" x 11" white paper.

PERMANENT

Date of Contribution	Name and Address of Recipient	Description of Contribution*	Amount or Value*
			\$

*See next page for details.

Certification: I certify that the information contained herein is true and complete to the best of my knowledge.

Name and title of person authorized to sign on employer's behalf	Signature	Date
--	-----------	------

L3C

Description of Contribution

Monetary Monetary contributions are those made in cash or by check, money order or other negotiable instrument. If total in amount column represents aggregate total given that recipient during the month (i.e., more than one contribution), indicate the date and amount of each contribution figured into the total.

For contributions given to incumbent candidates and elected officials, indicate whether the contribution is for the recipient's campaign account or public office account.

In-Kind Donated goods or services qualify as reportable contributions. In-kind contributions include such things as discounts on products or services, free transportation, free or reduced-rate office space, personal services, polling services, professional assistance to campaign managers and help with preparation of political advertising.

Amount or Value of Contribution

If the aggregate amount or value contributed to one recipient (candidate, elected official, agency officer or employee, or political committee) during a calendar month was over \$100 -- and the aggregate contribution was not reported by your lobbyist on his/her monthly report or the aggregate contribution was not made through and reported by your affiliated PAC -- put the total contributed in the Amount or Value column and provide the other required information.

In-Kind Value in-kind contributions at the amount you actually paid for the donated item or service or, if no purchase was made, value them at their fair market value. Fair market value is the amount a well-informed buyer or lessee, willing but not obligated to buy or lease, would pay; and what a well-informed seller, or lessor, willing but not obligated to sell or lease, would accept.

PERMANENT

AMENDATORY SECTION (Amending Order 85-05, filed 11/26/85)

WAC 390-20-120 Forms for report of legislative activity by public agencies. The official form for the report of legislative activity by public agencies as required by RCW 42.17.190 is designated "L-5," revised ((11/79)) 1/02. Copies of this form are available at the Commission Office, Room ((403)) 206, Evergreen Plaza Building, Olympia, Washington 98504-0908. Any attachments shall be on 8-1/2" x 11" white paper.



PUBLIC DISCLOSURE COMMISSION
711 CAPITOL WAY RM 403
PO BOX 40908
OLYMPIA WA 98504-0908
(206) 753-1111

PDC FORM
L-5
(Rev. 11/79)
LOBBYING BY STATE AND LOCAL GOVERNMENT AGENCIES

THIS SPACE FOR OFFICE USE

FILE NUMBER	P.M. DATE	DATE RECEIVED
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Instructions are Printed On Reverse

AGENCY OR GOVERNMENTAL ENTITY NAME AND ADDRESS	DATE PREPARED	REPORT FOR CALENDAR QUARTER ENDING
	COUNTY	MONTH YEAR

PERSONS WHO LOBBIED THIS QUARTER

NAME	JOB TITLE	ANNUAL SALARY	% OF TIME SPENT LOBBYING DURING QUARTER
------	-----------	---------------	---

GENERAL DESCRIPTION OF LOBBYING ACTIVITIES OR OBJECTIVES. (Include Bill or WAC Numbers If Any)

CHECK IF PERSON SPENT MORE THAN \$15 OF NON-PUBLIC FUNDS IN LOBBYING. SEE INSTRUCTIONS ON REVERSE

NAME	JOB TITLE	ANNUAL SALARY	% OF TIME SPENT LOBBYING DURING QUARTER
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GENERAL DESCRIPTION OF LOBBYING ACTIVITIES OR OBJECTIVES. (Include Bill or WAC Numbers If Any)

CHECK IF PERSON SPENT MORE THAN \$15 OF NON-PUBLIC FUNDS IN LOBBYING. SEE INSTRUCTIONS ON REVERSE

NAME	JOB TITLE	ANNUAL SALARY	% OF TIME SPENT LOBBYING DURING QUARTER
------	-----------	---------------	---

GENERAL DESCRIPTION OF LOBBYING ACTIVITIES OR OBJECTIVES. (Include Bill or WAC Numbers If Any)

CHECK IF PERSON SPENT MORE THAN \$15 OF NON-PUBLIC FUNDS IN LOBBYING. SEE INSTRUCTIONS ON REVERSE

NAME	JOB TITLE	ANNUAL SALARY	% OF TIME SPENT LOBBYING DURING QUARTER
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SALARIES OF PERSONS WHO LOBBIED (Include only portion of quarterly salary attributable to lobbying)	\$
TRAVEL (Include food, lodging, per diem payments and cost of transportation used.)	\$
BROCHURES AND OTHER PUBLICATIONS WHOSE PRINCIPAL PURPOSE IS TO INFLUENCE LEGISLATION	\$
CONSULTANTS OR OTHER CONTRACTUAL SERVICES	\$
TOTAL THIS QUARTER	\$
TOTAL TO DATE THIS YEAR	\$

CERTIFICATION: I certify that to the best of my knowledge the above is a true, complete and correct statement in accordance with RCW 42.17.190.

SIGNATURE OF AGENCY HEAD

PERMANENT

THESE INSTRUCTIONS APPLY ONLY TO GOVERNMENT AGENCIES REPORTING PURSUANT TO RCW 42.17.190.

WHO SHOULD REPORT?

Each state agency, county, city, town, municipal corporation, quasi-municipal corporation or special purpose district which expends public funds for "lobbying". Please study the definitions of what is and is not included in lobbying to determine if your agency is required to report.

"Lobbying" means attempting to influence the passage or defeat of any legislation by the state legislature or the adoption or rejection of any rule, standard, rate or other legislative enactment by any state agency under chapters 28.19 and 34.04 RCW. "Legislation" means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter which may be the subject of action by either house, or any committee of the legislature and all bills and resolutions which having passed both houses, are pending approval by the Governor.

LOBBYING DOES NOT INCLUDE

1. Requests for appropriations by a state agency to OFM pursuant to RCW 43.88 or requests by OFM to the legislature for appropriations other than its own agency budget. Note that an agency representative who, in person, contacts a legislator or committee on appropriations matters is lobbying.
2. Recommendations or reports to the legislature in response to a legislative request expressly requesting or directing a specific study, recommendation or report on a particular subject.
3. Official reports including recommendations submitted annually or biennially by a state agency as required by law.
4. Requests, recommendations or other communications between or within state agencies or between or within local agencies.
5. Telephone conversations or preparation of written correspondence.
6. Preparation or adoption of policy positions within an agency or group of agencies. Note that once a position is adopted, further action to advocate it may constitute lobbying.
7. Attempts to influence federal or local legislation.

LOBBYING NOT REPORTABLE

1. In person lobbying totaling no more than four days or parts of days during any three month period in aggregate for all officials and employees of the agency. In person lobbying includes testifying at legislative committee hearings and state agency hearings on rules and regulations but does not include attendance merely to monitor or observe testimony and debate.
2. In person lobbying by any elected official on behalf of his agency or in connection with his powers, duties or compensation.

EXPENDITURES OVER \$15 OF NON-PUBLIC FUNDS

Any person (including an elected official) who expends more than \$15 of personal or non-public funds for or on behalf of one or more legislators, state elected officials or state public officers or employees in connection with in person lobbying must be listed on the L-5 report. Attach a page showing the spender's name, and date, the source of funds and amount spent, and for whom the money was spent. Examples of these expenditures include entertainment, dinners and campaign contributions.

REPORTS REQUIRED

The L-5 report is submitted to cover each calendar quarter in which lobbying occurs. No report is required if no reportable lobbying has taken place during the quarter.


DUE DATES: April 30 (1st quarter) July 31 (2nd quarter)
October 31 (3rd quarter) January 31 (4th quarter)

ONE CONSOLIDATED REPORT SHOULD BE SUBMITTED TO INCLUDE LOBBYING ACTIVITIES OF ALL DIVISIONS OR OFFICES OF AN AGENCY.

Send Reports To: **Public Disclosure Commission**
711 Capitol Way, Rm 206
PO Box 40908
Olympia, WA 98504-0908

SPECIAL NOTE: In lieu of reporting as provided in RCW 42.17.190 any agency or lobbyist for an agency may elect to register and report as provided in RCW 42.17.150, .160, .170 and .180. An agency so choosing must notify PDC of that fact and obtain necessary reporting forms and instructions.

PERMANENT

PUBLIC DISCLOSURE COMMISSION

 711 CAPITOL WAY RM 206
 PO BOX 40908
 OLYMPIA WA 98504-0908
 (360) 753-1111
 TOLL FREE 1-877-601-2828

PDC FORM L-5 (Rev 1/02)	LOBBYING BY STATE AND LOCAL GOVERNMENT AGENCIES
--------------------------------------	---

Instructions Are Printed On Reverse

Agency or Governmental Entity Name and Address	Date prepared	Report for calendar quarter ending
	County	Month Year

PERSONS WHO LOBBIED THIS QUARTER

Name	Job title	Annual salary \$	% of time spent lobbying during quarter
------	-----------	---------------------	---

General description of lobbying activities or objectives. (Include bill or WAC numbers, if any)

Check if person spent more than \$15 of non-public funds in lobbying. See instructions on reverse.

Name	Job title	Annual salary \$	% of time spent lobbying during quarter
------	-----------	---------------------	---

General description of lobbying activities or objectives. (Include bill or WAC numbers, if any)

Check if person spent more than \$15 of non-public funds in lobbying. See instructions on reverse.

Name	Job title	Annual salary \$	% of time spent lobbying during quarter
------	-----------	---------------------	---

General description of lobbying activities or objectives. (Include bill or WAC numbers, if any)

Check if person spent more than \$15 of non-public funds in lobbying. See instructions on reverse.

EXPENDITURES FOR LOBBYING THIS QUARTER

Report only the separately identifiable and measurable expenditures incurred for lobbying purposes

Salaries Of Persons Who Lobbied (Include only portion of quarterly salary attributable to lobbying)	\$
Travel (Include food, lodging, per diem payments and cost of transportation used)	\$
Brochures And Other Publications Whose Principal Purpose is To Influence Legislation	\$
Consultants Or Other Contractual Services	\$
Total This Quarter	\$
Total To Date This Year	\$

CERTIFICATION: I certify that to the best of my knowledge the above is a true, complete and correct statement in accordance with RCW 42.17.190.

Signature of agency head

Attach additional sheets if more room is required

PERMANENT

THESE INSTRUCTIONS APPLY ONLY TO GOVERNMENT AGENCIES REPORTING PURSUANT TO RCW 42.17.190.**WHO SHOULD REPORT?**

Each state agency, county, city, town, municipal corporation, quasi-municipal corporation or special purpose district which expends public funds for "lobbying". Please study the definitions of what is and is not included in lobbying to determine if your agency is required to report.

"Lobbying" means attempting to influence the passage or defeat of any legislation by the state legislature or the adoption or rejection of any rule, standard, rate or other legislative enactment by any state agency under chapters 28.19 and 34.04 RCW. "Legislation" means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter which may be the subject of action by either house, or any committee of the legislature and all bills and resolutions which having passed both houses, are pending approval by the Governor.

LOBBYING DOES NOT INCLUDE

1. Requests for appropriations by a state agency to OFM pursuant to RCW 43.88 or requests by OFM to the legislature for appropriations other than its own agency budget. Note that an agency representative who, in person, contacts a legislator or committee on appropriations matters is lobbying.
2. Recommendations or reports to the legislature in response to a legislative request expressly requesting or directing a specific study, recommendation or report on a particular subject.
3. Official reports including recommendations submitted annually or biennially by a state agency as required by law.
4. Requests, recommendations or other communications between or within state agencies or between or within local agencies.
5. Telephone conversations or preparation of written correspondence.
6. Preparation or adoption of policy positions within an agency or group of agencies. Note that once a position is adopted, further action to advocate it may constitute lobbying.
7. Attempts to influence federal or local legislation.

LOBBYING NOT REPORTABLE

1. In person lobbying totaling no more than four days or parts of days during any three month period in aggregate for all officials and employees of the agency. In person lobbying includes testifying at legislative committee hearings and state agency hearings on rules and regulations but does not include attendance merely to monitor or observe testimony and debate.
2. In person lobbying by any elected official on behalf of his agency or in connection with his powers, duties or compensation.

EXPENDITURES OVER \$15 OF NON-PUBLIC FUNDS

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REPORTS REQUIRED

The L-5 report is submitted to cover each calendar quarter in which lobbying occurs. No report is required if no reportable lobbying has taken place during the quarter.

DUE DATES: April 30 (1st quarter) July 31 (2nd quarter)
October 31 (3rd quarter) January 31 (4th quarter)

ONE CONSOLIDATED REPORT SHOULD BE SUBMITTED TO INCLUDE LOBBYING ACTIVITIES OF ALL DIVISIONS OR OFFICES OF AN AGENCY.

Send Reports To: **Public Disclosure Commission**
711 Capitol Way, Rm 206
PO Box 40908
Olympia, WA 98504-0908

SPECIAL NOTE: In lieu of reporting as provided in RCW 42.17.190 any agency or lobbyist for an agency may elect to register and report as provided in RCW 42.17.150, .160, .170 and .180. An agency so choosing must notify PDC of that fact and obtain necessary reporting forms and instructions.

AMENDATORY SECTION (Amending WSR 90-16-083, filed 7/31/90, effective 8/31/90)

WAC 390-20-125 Forms for registration and reporting by sponsors of grass roots lobbying campaigns. The official form for registration and reporting by sponsors of grass roots lobbying campaigns as required by RCW 42.17.200 is designated "L-6," revised ((6/90)) 1/02. Copies of this form are available at the Commission Office, Room ((403)) 206, Evergreen Plaza Building, Olympia, Washington 98504-0908. Any attachments shall be on 8-1/2" x 11" white paper.

PUBLIC DISCLOSURE COMMISSION
711 CAPITOL WAY RM 206
PO BOX 40908
OLYMPIA WA 98504-0908
(360) 253-1111

GRASS ROOTS LOBBYING

PDC FORM
L-6
(6/90)

THIS SPACE FOR OFFICE USE

Sponsor's name
Address
City State Zip Telephone

1. Describe the topic(s) or legislation about which the campaign is conducted. Include bill, rule, rate, standard number, if any.

2. This report covers:
 Registration (Initial report)
 Monthly report From To
 Final report (Campaign is ended)

3. List the principal officers of the group or organization if the sponsor is a business, union, association, political organization or other entity.

NAME	TITLE	ADDRESS
------	-------	---------

4. Who is organizing or managing the campaign? List persons or firms hired to assist in the campaign, including public relations and advertising agents.


NAME AND ADDRESS	OCCUPATION OR BUSINESS	TERMS OF COMPENSATION
------------------	------------------------	-----------------------

5. Expenditures Made Or Incurred In The Campaign:

1. Previous expenditures (from line 4, last L-6 report)	\$	_____
2. Expenses this reporting period:	\$	_____
A. Radio	_____	_____
B. Television	_____	_____
C. Newspapers, magazines	_____	_____
D. Brochures, signs	_____	_____
E. Printing and mailing	_____	_____
F. Consultants, public relations	_____	_____
G. Office expense, travel, salaries	_____	_____
H. Contributions	_____	_____
I. Entertainment	_____	_____
J. Other expenses	_____	_____
3. Total expenditures this period (lines 2a-2j)	\$	_____
4. Total expenditures in the campaign (lines 1 + 3)	\$	_____

Continue On Reverse

PERMANENT

PUBLIC DISCLOSURE COMMISSION

711 CAPITOL WAY RM 206
PO BOX 40908
OLYMPIA WA 98504-0908
(360) 753-1111
TOLL FREE 1-877-601-2828

GRASS ROOTS LOBBYING

POC FORM
L-6
 (1/02)

THIS SPACE FOR OFFICE USE

Sponsor's name _____

Address _____

City _____ State _____ Zip _____ Telephone () - _____

1. Describe the topic(s) or legislation about which the campaign is conducted. Include bill, rule, rate, standard number, if any.

2. This report covers:

Registration (Initial report)

Monthly report
From _____ To _____

Final report (Campaign is ended)

3. List the principal officers of the group or organization if the sponsor is a business, union, association, political organization or other entity.

NAME	TITLE	ADDRESS
------	-------	---------

4. Who is organizing or managing the campaign? List persons or firms hired to assist in the campaign, including public relations and advertising agents.

NAME AND ADDRESS	OCCUPATION OR BUSINESS	TERMS OF COMPENSATION
------------------	------------------------	-----------------------

5. Expenditures Made Or Incurred In The Campaign:

1. Previous expenditures (from line 4, last L-6 report)		\$ _____
2. Expenses this reporting period:	\$ _____	
A. Radio	_____	
B. Television	_____	
C. Newspapers, magazines	_____	
D. Brochures, signs	_____	
E. Printing and mailing	_____	
F. Consultants, public relations	_____	
G. Office expense, travel, salaries	_____	
H. Contributions	_____	
I. Entertainment	_____	
J. Other expenses	_____	
3. Total expenditures this period (lines 2a-2j)		\$ _____
4. Total expenditures in the campaign (lines 1 + 3)		\$ _____

Continue On Reverse

PERMANENT

AMENDATORY SECTION (Amending Order 85-05, filed 11/26/85)

WAC 390-20-130 Forms for statement of employment of legislators, state officers, and state employees. The official form for statement of employment of legislators, state officers, and state employees as required by RCW 42.17.210 is designated "L-7((:))" revised 1/02. Copies of this form are available at the Commission Office, Room ((403)) 206, Evergreen Plaza Building, Olympia, Washington 98504-0908. Any attachments shall be on 8-1/2" x 11" white paper.



PUBLIC DISCLOSURE COMMISSION
711 CAPITOL WAY RM 403
PO BOX 40908
OLYMPIA WA 98504-0908
(206) 753-0111

See completion instructions at bottom of page.
(Type or print clearly)

FILING FORM L-7	TO BE FILED BY: EMPLOYERS OF LEGISLATORS, STATE OFFICERS OR STATE EMPLOYEES (Sec. 21)
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THIS SPACE FOR OFFICE USE		
P.M. DATE	DATE RECVD.	ITEM NUMBER

EMPLOYER'S NAME AND BUSINESS ADDRESS	DATE PREPARED	THIS FORM <input type="checkbox"/> REPLACES PREVIOUS FILING PREPARED: (Mo.) (Day) (Yr.)
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ITEM 1	NAME OF PERSON BEING EMPLOYED
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ITEM 2	NATURE OF EMPLOYMENT BY REPORTING EMPLOYER
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ITEM 3	AMOUNT AND NATURE OF PAY OR CONSIDERATION
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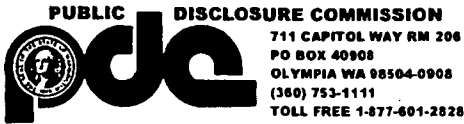
ITEM 4	NATURE OF STATE OFFICE OR EMPLOYMENT
--------	--------------------------------------

<p align="center">INSTRUCTIONS</p> <p>WHO SHOULD FILE THIS FORM: Any person registered or required to be registered as a lobbyist under this act or any employer of any person registered or required to be registered as a lobbyist under this act, who employs a member of the legislature, an employee of the legislature, a member of a state board or commission, or a full time state employee, if that employee remains partially employed by the state.</p> <p>FILING DEADLINE: Within 15 days after commencement of employment.</p> <p>FORM TO BE SUBMITTED TO: Public Disclosure Commission.</p> <p align="center"><i>Section 21 of this Law is printed in full below.</i></p>	<p>SUBSCRIBED AND SWORN BEFORE ME THIS _____ DAY OF _____ 19 _____</p> <p>NOTARY PUBLIC, IN AND FOR THE STATE OF WASHINGTON RESIDING IN:</p> <p>CERTIFICATION: I hereby certify under oath, that the above is a true, complete and correct statement in accordance with Sec. 21 of this Law.</p> <p>SIGNATURE _____</p> <p>TITLE _____ DATE _____</p>
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EXCERPTS FROM PUBLIC DISCLOSURE LAW

Section 21. EMPLOYMENT OF LEGISLATORS, ATTACHES, OR STATE EMPLOYEES; STATEMENT, CONTENTS AND FILING. If any person registered or required to be registered as a lobbyist under this act employs, or if any employer of any person registered or required to be registered as a lobbyist under this act, employs any member of the legislature, or any member of any state board or commission, or any employee of the legislature, or fulltime state employee, if such new employee shall remain in the partial employ of the State or any agency thereof, then the new employer shall file a statement under oath with the commission setting out the nature of the employment, the name of the person to be paid thereunder, and the amount of

PERMANENT



L7	TO BE FILED BY EMPLOYERS OF STATE LEGISLATORS STATE OFFICERS OR STATE EMPLOYEES
1/02	

EMPLOYER'S NAME AND BUSINESS ADDRESS	THIS SPACE FOR OFFICE USE		
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center; padding: 5px;">POSTMARK</td> <td style="width: 50%; text-align: center; padding: 5px;">DATE RECEIVED</td> </tr> </table>	POSTMARK	DATE RECEIVED
POSTMARK	DATE RECEIVED		

DATE PREPARED: _____	THIS FORM	<input type="checkbox"/> AMENDS <input type="checkbox"/> REPLACES	PREVIOUS FILING PREPARED (DATE) _____
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ITEM 1	NAME OF PERSON BEING EMPLOYED
--------	-------------------------------

ITEM 2	NATURE OF EMPLOYMENT BY REPORTING EMPLOYER
--------	--

ITEM 3	AMOUNT AND NATURE OF PAY OR CONSIDERATION
--------	---

ITEM 4	NATURE OF STATE OFFICE OR EMPLOYMENT
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<p style="text-align: center; font-weight: bold; margin: 0;">INSTRUCTIONS</p> <p>WHO SHOULD FILE THIS FORM: Any person registered or required to be registered as a lobbyist under this act, who employs a member of the legislature, and employee of the legislature, a member of a state board or commission, or a full time state employee, if that employee remains partially employed by the state.</p> <p>FILING DEADLINE: Within 15 days after commencement of employment.</p> <p>FORM TO BE SUBMITTED TO: Public Disclosure Commission.</p>	<p>CERTIFICATION: I hereby certify under oath, that the above is a true, complete and correct statement in accordance with RCW 42.17.210.</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <tr> <td style="width: 80%; padding: 5px;">SIGNATURE</td> <td style="width: 20%;"></td> </tr> <tr> <td style="padding: 5px;">TITLE</td> <td style="padding: 5px;">DATE</td> </tr> </table>	SIGNATURE		TITLE	DATE
SIGNATURE					
TITLE	DATE				

EXCERPT FROM PUBLIC DISCLOSURE LAW
RCW 42.17.210 — Employment of legislators, board or commission members, or state employees — Statement, contents and filing.
 If any person registered or required to be registered as a lobbyist under this chapter employs, or if any employer of any person registered or required to be registered as a lobbyist under this chapter, employs any member of the legislature, or any member of any state board or commission, or any employee of the legislature, or any full-time state employee, if such new employee shall remain in the partial employ of the state or any agency thereof, then the new employer shall file a statement under oath with the commission setting out the nature of the employment, the name of the person to be paid thereunder, and the amount of pay or consideration to be paid thereunder. The statement shall be filed within fifteen days after the commencement of such employment.

PERMANENT

WSR 02-03-019
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed January 4, 2002, 4:26 p.m., effective February 1, 2002]

Date of Adoption: January 3, 2002.

Purpose: This rule describes how the department treats income from employment and training programs.

Citation of Existing Rules Affected by this Order: Amending WAC 388-450-0045.

Statutory Authority for Adoption: RCW 74.08.090 and 74.04.510.

Adopted under notice filed as WSR 01-23-068 on November 20, 2001.

Changes Other than Editing from Proposed to Adopted Version: At subsection (3) added examples of payments issued under Titles I and II of the Domestic Volunteer Act of 1973.

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 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.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Failure to adopt these rules timely could cause incorrect calculations of benefits, resulting in eligibility determinations that may result in nonpayment of benefits or client responsibility to repay.

Effective Date of Rule: February 1, 2002.

January 8, 2002

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

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

WAC 388-450-0045 How do we count income from employment ((or)) and training programs((or))? This section applies to ((TANF/SFA, RCA, GA, and food assistance programs:

(1) Payments issued under the Job Training Partnership Act (JTPA) are considered as follows:

(a) Wages paid under JTPA including wages for on-the-job training are counted as earned income.

~~(b) For TANF/SFA, RCA, and GA assistance, needs based payments issued under JTPA including payments for on-the-job training are considered as follows:~~

~~(i) Payments which cover special needs not covered in the need standard are excluded.~~

~~(ii) Payments which duplicate items contained in the need standard are excluded up to the difference between the student's appropriate need standard and payment standard.~~

~~(c) For food assistance:~~

~~(i) Living allowances and incentive payments under JTPA are excluded as income; and~~

~~(ii) Earnings received from on-the-job training programs under JTPA are:~~

~~(A) Counted as earned income for persons:~~

~~(I) Age nineteen and older; or~~

~~(II) Age eighteen or younger and not under parental control.~~

~~(B) Excluded income for persons eighteen years of age or younger and under parental control.~~

~~(2) Payments issued under the National and Community Service Trust Act of 1993 (AmeriCorps) are considered as follows:~~

~~(a) For cash assistance, living allowances or stipends paid under AmeriCorps are counted as earned income.~~

~~(b) For food assistance, living allowances or stipends paid under AmeriCorps are excluded income.~~

~~(3) AmeriCorps/VISTA stipends and living allowances paid to VISTA volunteers under the Domestic Volunteer Act of 1973:~~

~~(a) For TANF/SFA, RCA, and GA assistance, are disregarded as income; and~~

~~(b) For food assistance, are counted as earned income. The payments are disregarded if the client received:~~

~~(i) Food assistance or cash assistance at the time they joined the Title I program; or~~

~~(ii) An income disregard for the Title I program at the time of conversion to the Food Stamp Act of 1977. Disregard of Title I program income will continue through temporary interruptions in food assistance participation.~~

~~(4) For TANF/SFA, RCA, and GA assistance, needs based payments issued under AmeriCorps are considered the same way as JTPA payments as provided in subsection (1)(b) of this section.~~

~~(5) For food assistance, training allowances from vocational and rehabilitative programs are counted as earned income when:~~

~~(a) Recognized by federal, state, or local governments; and~~

~~(b) Not a reimbursement.~~

~~(6) For training allowances received by GA U clients:~~

~~(a) The earned income incentive and work expense deduction specified under WAC 388-450-0175 is applied when applicable; and~~

~~(b) For clients enrolled in a remedial education or vocational training course, the actual cost of uniforms or special clothing required for the course is deducted from the training allowance.~~

~~(7) Support service payments received by or made on behalf of WorkFirst participants are not considered income.)~~

cash assistance, food assistance, and medical programs for families, children, and pregnant women.

(1) We treat payments issued under the Workforce Investment Act (WIA) as follows:

(a) For cash assistance and medical programs for families, children, and pregnant women, we exclude all payments.

(b) For food assistance:

(i) We exclude OJT earnings for children who are eighteen years of age or younger and under parental control as described in WAC 388-408-0035.

(ii) We count OJT earnings as earned income for people who are:

(A) Age nineteen and older; or

(B) Age eighteen or younger and not under parental control.

(iii) We exclude all other payments.

(2) We treat payments issued under the National and Community Service Trust Act of 1993 (AmeriCorps) as follows:

(a) We exclude OJT earnings for children who are eighteen years of age or younger and under parental control as described in WAC 388-408-0035 (2)(c).

(b) We count OJT earnings as earned income for people who are:

(i) Age nineteen and older; or

(ii) Age eighteen or younger and not under parental control.

(c) We exclude all other payments.

(3) We exclude payments issued under Title II of the Domestic Volunteer Act of 1973, such as Retired Senior Volunteer Program (RSVP).

(4) We treat payments issued under Title I of the Domestic Volunteer Act of 1973, such as VISTA, as follows:

(a) For cash assistance and medical programs for families, children, and pregnant women, we exclude all payments.

(b) For food assistance, we count most payments as earned income. We exclude the payments if you got:

(i) Food assistance or cash assistance at the time you joined the Title I program; or

(ii) You were participating in the Title I program and got an income disregard at the time of conversion to the Food Stamp Act of 1977. We will continue to exclude the payments you get even if you do not get food assistance every month.

(5) We count training allowances from vocational and rehabilitative programs as earned income when:

(a) The program is recognized by federal, state, or local governments; and

(b) The allowance is not a reimbursement.

(6) When GAU clients receive training allowances we allow:

(a) The earned income incentive and work expense deduction specified under WAC 388-450-0175, when applicable; and

(b) The actual cost of uniforms or special clothing required for the course as a deduction, if enrolled in a remedial education or vocational training course.

(7) We exclude support service payments received by or made on behalf of WorkFirst participants.

WSR 02-03-020

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed January 4, 2002, 4:28 p.m., effective February 1, 2002]

Date of Adoption: January 3, 2002.

Purpose: This rule describes how the department treats the earned income of a child.

Citation of Existing Rules Affected by this Order: Amending WAC 388-450-0070.

Statutory Authority for Adoption: RCW 74.08.090 and 74.04.510.

Adopted under notice filed as WSR 01-23-069 on November 20, 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 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 1, 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.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Failure to adopt these rules timely could cause incorrect calculations of benefits, resulting in eligibility determinations that may result in nonpayment of benefits or client responsibility to repay.

Effective Date of Rule: February 1, 2002.

January 3, 2002

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

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

WAC 388-450-0070 ((A child's)) **How do we count the earned income((s)) of a child?** ((Unless otherwise specified, this section applies to TANF/SFA, RCA, GA-H and TANF/SFA-related medical programs. The earned income of a dependent child is:

(1) Excluded when determining if the total income of the assistance unit is more than one hundred eighty five percent of the need standard in WAC 388-478-0015. This exclusion is limited to:

(a) Children who are full-time students; and

(b) No more than six months in any calendar year.

(2) Not counted when determining the assistance unit's need and benefit level when the child is a:

(a) Full-time student; or

~~(b) Part-time student who is employed less than full-time.~~

~~(3) For food assistance programs, all earned income of a child is not counted when a child is:~~

~~(a) Seventeen years of age or younger; and~~

~~(b) Attending elementary or secondary school at least half-time)) (1) For food assistance and medical programs for families, children, and pregnant women, we do not count the earnings of a child if the child is:~~

~~(a) In school;~~

~~(b) Age seventeen or younger;~~

~~(c) Not married; and~~

~~(d) Not emancipated.~~

~~(2) For cash assistance, we do not count the earnings of a child if the child is:~~

~~(a) In school; and~~

~~(b) Meets the age and attendance requirements in WAC 388-404-0005.~~

~~(3) School includes:~~

~~(a) Participating in a home-school program that is approved by the superintendent of public instruction; or~~

~~(b) On break between school terms when the child:~~

~~(i) Was enrolled during the previous school term; and~~

~~(ii) Plans to return to school when it reopens.~~

~~(4) For medical programs, if we count the earnings of the child, we put the child in a separate MAU as described in WAC 388-408-0055.~~

WSR 02-03-031

PERMANENT RULES

SPOKANE COUNTY AIR POLLUTION CONTROL AUTHORITY

[Filed January 7, 2002, 9:52 a.m.]

Date of Adoption: January 3, 2002.

Purpose: (1) Clarify right-of-entry; (2) for Notices of Construction, reference fees in SCAPCA Regulation I, Article X; (3) for Notices of Intent, reference fees in Article X; (4) move paving waiver fees to SCAPCA Regulation I, Section 10.14; and (5) new section for paving waiver fees, which include minimum filing fee at time of application.

Citation of Existing Rules Affected by this Order: Amending SCAPCA Reg. I, Section 2.02.E&F, 5.04.A.7, 5.08, 10.08, 10.14.

Statutory Authority for Adoption: RCW 70.94.141.

Adopted under notice filed as WSR 01-23-048 on November 16, 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 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 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, 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 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 3, 2002

Matt Holmquist

Compliance Administrator

AMENDATORY SECTION

REGULATION I, ARTICLE II GENERAL PROVISIONS

SECTION 2.02 CONTROL OFFICER'S DUTIES AND POWERS

~~((E. For the purpose of investigating conditions specific to the control, recovery or release of air contaminants into the atmosphere, the Control Officer or his duly authorized representatives shall have the power to enter, at reasonable times, upon any private or public property, excepting equipment specifically excepted in Section 6.09 of this Regulation. No person shall refuse entry or access to the Control Officer or his duly authorized representatives who request entry for the purpose of inspection and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such inspection. (RCW 70.94.200)~~

~~F. If the Control Officer or an authorized employee of the Authority during the course of an inspection desires to obtain a sample of air contaminant, fuel, process material or other material which affects or may affect the emission of air contaminants, he shall notify the owner or lessee of the time and place of obtaining a sample so the owner or lessee has the opportunity to take a similar sample at the same time and place, and the Control Officer or the authorized employee of the Authority shall give a receipt to the owner or lessee for the sample obtained))~~

E. For the purpose of investigating conditions specific to the control, recovery or release of air contaminants into the atmosphere, the Control Officer or his/her duly authorized representatives shall have the power to enter at reasonable times upon any private or public property when the inspection is to verify compliance with a registration, permit or other order of the Authority or when the Control Officer or his/her representative has probable cause to believe a violation has occurred, is occurring or that a violation may occur, and advises the person of the purpose for which the entry is requested unless such property is otherwise open to the public; excepting non-multiple unit private dwellings housing two families or less. No person shall refuse entry or access to the Control Officer or his/her duly authorized representative who requests entry for the purpose of inspection or investigation at reasonable times, discloses the purpose and who presents appropriate Authority credentials, nor shall any person intimidate, obstruct, hamper or interfere with any such inspection.

F. If an authorized employee of the Authority, during the course of an inspection desires to obtain a sample of air contaminant, fuel, process material or other material that affects or may affect the emission of air contaminants, he/she shall notify the owner or lessee of the time and place of obtaining a sample so the owner or lessee has the opportunity to take a similar sample at the same time and place, and the Control Officer or the authorized representative of the Authority shall give a receipt to the owner or lessee for the sample obtained.

AMENDATORY SECTION

SCAPCA REGULATION I, ARTICLE V NEW, MODIFIED, AND TEMPORARY STATIONARY AIR CONTAMINANT SOURCES

SECTION 5.04 INFORMATION REQUIRED

A. Each Notice of Construction and Application for Approval shall be accompanied by appropriate documentation that provides a detailed description of the stationary air contaminant source. Such information may include, but is not limited to:

7. The owner or operator shall provide proof that the requirements of Article XI of this Regulation (Spokane Environmental Ordinance) have been met.

If SCAPCA is the lead agency for review of an Environmental Checklist (SEPA) or Environmental Impact Statement (EIS) related to the Notice of Construction being submitted, then the person filing the SEPA shall pay a review fee according to Regulation I, Article X. This fee shall be paid without regard to whether the Notice of Construction and Application for Approval is approved or denied.

AMENDATORY SECTION

SCAPCA REGULATION I, ARTICLE V NEW, MODIFIED, AND TEMPORARY STATIONARY AIR CONTAMINANT SOURCES

SECTION 5.08 TEMPORARY STATIONARY AIR CONTAMINANT SOURCES

A. Except as otherwise allowed in 5.08.I of this Article, for stationary air contaminant sources which locate temporarily at specific sites, the owner or operator shall be allowed to operate at the temporary location without filing a Notice of Construction and Application for Approval, provided the owner or operator files a Notice of Intent to Install and Operate a Temporary Source (NOI) at least fifteen (15) calendar days prior to starting the operation, (using Authority prepared and furnished application and information request forms) and obtains permission to operate from the Control Officer. Sufficient information shall be supplied by the owner or operator to enable the Control Officer to determine that the operation will be in accordance with Chapter 70.94 RCW, the Federal Clean Air Act (42 USC 7401 et seq.), and the rules adopted thereunder. The owner or operator shall also provide proof that the requirements of Article XI of this Regulation (Spokane Environmental Ordinance) have been met.

If SCAPCA is the lead agency for review of an Environmental Checklist (SEPA) or Environmental Impact Statement (EIS) related to the NOI being submitted, then the per-

son filing the SEPA shall pay a review fee according to Regulation I, Article X. This fee shall be paid without regard to whether permission to operate is granted or denied.

AMENDATORY SECTION

SCAPCA REGULATION I, ARTICLE X FEES AND CHARGES

SECTION 10.08 MISCELLANEOUS FEES

A fee of \$50 per hour of time expended in review shall be paid by the applicant for each of the following:

A. Emission reduction credit request pursuant to Chapter 173-400-131 WAC.

~~((B.) B. Paving waiver request pursuant to Spokane County Zoning Code, Section 14.802.080 or City of Deer Park Code, Chapter 18.74.050.))~~

~~((C.) C. Alternate opacity limit request pursuant to RCW 70.94.331 (2)(c).~~

~~((D.) D. Reasonably Available Control Technology (RACT) determination pursuant to Chapter 173-400-040 WAC and/or RCW 70.94.161.~~

~~((E.) E. Variance request pursuant to SCAPCA Regulation II; Article III or RCW 70.94.181. In addition, the applicant shall pay a filing fee of \$125.~~

~~((F.) F. Voluntary limits on emissions request pursuant to Chapter 173-400-091 WAC.~~

~~((G.) G. Requests pursuant to the following sections of this regulation.~~

- ~~1. Section 6.13.E.3.j (use of alternate spray application method);~~
- ~~2. Section 6.13.F.4 (large object enclosure exemption);~~
- ~~3. Section 6.13.F.6 (stack exemption);~~
- ~~4. Section 6.13.F.9 (use of lead or hexavalent chrome containing coatings);~~
- ~~5. Section 6.13.F.10 (enclosure and/or particulate control exemption); and~~
- ~~6. Section 6.13.F.11 (inside exhaust exemption).~~

NEW SECTION

SCAPCA REGULATION I, ARTICLE X FEES AND CHARGES

SECTION 10.14 PAVING WAIVER FEES

A minimum nonrefundable filing and review fee of \$50 shall accompany all paving waiver requests submitted to SCAPCA. After the first hour of filing and review, an additional fee of \$50 per hour shall be paid by the applicant for each hour of time expended by SCAPCA in carrying out the review.

WSR 02-03-039

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed January 8, 2002, 3:59 p.m.]

Date of Adoption: January 8, 2002.

Purpose: To provide the rate of interest that will be assessed when property taxes are refunded to taxpayers.

The rates of interest reflected in this rule are used when property taxes are refunded. The rates are shown in chronological order with reference to the year the property taxes were paid. The rule is being revised to provide the rate of interest for treasury bill auction year 2001, which is used as a basis for refunding taxes paid in 2002.

Citation of Existing Rules Affected by this Order: Amending WAC 458-18-220 Refunds—Rates of interest.

Statutory Authority for Adoption: RCW 84.69.100.

Adopted under notice filed as WSR 01-22-006 on October 26, 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 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 8, 2002

Russell W. Brubaker

Assistant Director

Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 00-24-106, filed 12/6/00, effective 12/31/00)

WAC 458-18-220 Refunds—Rate of interest. The following rates of interest shall apply on refunds of taxes made pursuant to RCW 84.69.010 through 84.69.090 in accordance with RCW 84.69.100. The following rates shall also apply to judgments entered in favor of the plaintiff pursuant to RCW 84.68.030. The interest rate is derived from the equivalent coupon issue yield of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted after June 30th of the calendar year preceding the date the taxes were paid. The rate thus determined shall be applied to the amount of the judgment or the amount of the refund, until paid:

Year tax paid	Auction Year	Rate
1985	1984	11.27%
1986	1985	7.36%
1987	1986	6.11%
1988	1987	5.95%
1989	1988	7.04%
1990	1989	8.05%
1991	1990	8.01%

Year tax paid	Auction Year	Rate
1992	1991	5.98%
1993	1992	3.42%
1994	1993	3.19%
1995	1994	4.92%
1996	1995	5.71%
1997	1996	5.22%
1998	1997	5.14%
1999	1998	5.06%
2000	1999	4.96%
2001	2000	5.98%
<u>2002</u>	<u>2001</u>	<u>3.50%</u>

WSR 02-03-040
PERMANENT RULES
DEPARTMENT OF REVENUE
 [Filed January 8, 2002, 4:00 p.m.]

Date of Adoption: January 8, 2002.

Purpose: To provide county assessors with the rate of interest and property tax component used in valuing farm and agricultural land classified under chapter 84.34 RCW (the open space program) during assessment year 2002.

This rule is being amended to update the interest rate and property tax component used to value farm and agricultural land classified under chapter 84.34 RCW.

Citation of Existing Rules Affected by this Order: Amending WAC 458-30-262 Agricultural land valuation—Interest rate—Property tax component.

Statutory Authority for Adoption: RCW 84.34.065.

Other Authority: RCW 84.34.141.

Adopted under notice filed as WSR 01-22-005 on October 26, 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 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 8, 2002

Russell W. Brubaker

Assistant Director

Legislation and Policy Division

PERMANENT

AMENDATORY SECTION (Amending WSR 00-24-105, filed 12/6/00, effective 1/1/01)

WAC 458-30-262 Agricultural land valuation—Interest rate—Property tax component. For assessment year ((2001)) 2002, the interest rate and the property tax component that are to be used to value classified farm and agricultural lands are as follows:

- (1) The interest rate is ((9.49)) 9.35 percent; and
- (2) The property tax component for each county is:

COUNTY	PERCENT	COUNTY	PERCENT
Adams	((1.40)) <u>1.37</u>	Lewis	((1.23)) <u>1.21</u>
Asotin	((1.48)) <u>1.44</u>	Lincoln	((1.43)) <u>1.41</u>
Benton	((1.48)) <u>1.46</u>	Mason	((1.26)) <u>1.25</u>
Chelan	1.32	Okanogan	((1.28)) <u>1.27</u>
Clallam	((1.17)) <u>1.18</u>	Pacific	((1.20)) <u>1.27</u>
Clark	((1.35)) <u>1.37</u>	Pend Oreille	((1.37)) <u>1.34</u>
Columbia	((1.43)) <u>1.40</u>	Pierce	((1.57)) <u>1.53</u>
Cowlitz	((1.24)) <u>1.20</u>	San Juan	((0.83)) <u>0.84</u>
Douglas	((1.33)) <u>1.43</u>	Skagit	((1.28)) <u>1.27</u>
Ferry	((1.14)) <u>1.12</u>	Skamania	((1.06)) <u>1.05</u>
Franklin	((1.59)) <u>1.53</u>	Snohomish	((1.40)) <u>1.39</u>
Garfield	((1.62)) <u>1.60</u>	Spokane	((1.45)) <u>1.48</u>
Grant	((1.48)) <u>1.44</u>	Stevens	((1.10)) <u>1.16</u>
Grays Harbor	((1.29)) <u>1.30</u>	Thurston	((1.55)) <u>1.53</u>
Island	((1.04)) <u>1.02</u>	Wahkiakum	((1.02)) <u>1.03</u>
Jefferson	((1.24)) <u>1.22</u>	Walla Walla	((1.49)) <u>1.46</u>
King	((1.27)) <u>1.19</u>	Whatcom	((1.34)) <u>1.30</u>
Kitsap	((1.47)) <u>1.32</u>	Whitman	((1.44)) <u>1.47</u>
Kittitas	((1.08)) <u>1.07</u>	Yakima	1.33
Klickitat	((1.13)) <u>1.18</u>		

WSR 02-03-041
PERMANENT RULES
DEPARTMENT OF REVENUE
 [Filed January 8, 2002, 4:01 p.m.]

Date of Adoption: January 8, 2002.

Purpose: To provide information about the rate of inflation that is used by county officials to calculate interest on deferred special benefit assessments when farm and agricultural or timber land is removed or withdrawn from classification under chapter 84.34 RCW, the open space program.

Special benefit assessments for certain local improvements to farm and agricultural or timber land classified under chapter 84.34 RCW may be deferred by the land owner. If a land owner has chosen to defer these assessments, when the land is subsequently removed or withdrawn from classification the deferred special benefit assessments become due and payable with interest. WAC 458-30-590 provides the rate of inflation used in calculating the interest rate that is added to the deferred amount of special benefit assessments.

Citation of Existing Rules Affected by this Order: Amending WAC 458-30-590 Rate of inflation—Publication—Interest rate—Calculation.

Statutory Authority for Adoption: RCW 84.34.360.

Other Authority: RCW 84.34.310.

Adopted under notice filed as WSR 01-22-004 on October 26, 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 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 8, 2002

Russell W. Brubaker

Assistant Director

Legislation and Policy Division

PERMANENT

AMENDATORY SECTION (Amending WSR 00-24-107, filed 12/6/00, effective 1/1/01)

WAC 458-30-590 Rate of inflation—Publication—Interest rate—Calculation. (1) **Introduction.** This section sets forth the rates of inflation discussed in WAC 458-30-550. It also explains the department of revenue's obligation to annually publish a rate of inflation and the manner in which this rate is determined.

(2) **General duty of department—Basis for inflation rate.** Each year the department determines and publishes a rule establishing an annual rate of inflation. This rate of inflation is used in computing the interest that is assessed when farm and agricultural or timber land, which are exempt from special benefit assessments, is withdrawn or removed from current use classification.

(a) The rate of inflation is based upon the implicit price deflator for personal consumption expenditures calculated by the United States Department of Commerce. This rate is used to calculate the rate of interest collected on exempt special benefit assessments.

(b) The rate is published by December 31st of each year and applies to all withdrawals or removals from farm and agricultural or timber land classification that occur the following year.

(3) **Assessment of rate of interest.** An owner of classified farm and agricultural or timber land is liable for interest on the exempt special benefit assessment. Interest accrues from the date the local improvement district is created until the land is withdrawn or removed from classification. Interest accrues and is assessed in accordance with WAC 458-30-550.

(a) Interest is assessed only for the time (years and months) the land remains classified under RCW 84.34.020 (2) or (3).

(b) If the classified land is exempt from the special benefit assessment for more than one year, the annual inflation rates are used to calculate an average rate of interest. This average is determined by adding the inflation rate for each year the classified land was exempt from the special benefit assessment after the local improvement district was created. The sum of the inflation rates is then divided by the number of years involved to determine the applicable rate of interest.

(c) Example. A local improvement district for a domestic water supply system was created in January 1990 and the owner used the statutory exemption provided in RCW 84.34.320. On July 1, 1997, the land was removed from the farm and agricultural classification. An average interest rate was calculated using the inflation rates for 1990 through 1997. The owner was then notified of the amount of previously exempt special benefit assessment, plus the average interest rate.

(4) **Rates of inflation.** The rates of inflation used to calculate the interest as required by WAC 458-30-550 are as follows:

YEAR	PERCENT	YEAR	PERCENT
1976	5.6	1977	6.5
1978	7.6	1979	11.3
1980	13.5	1981	10.3
1982	6.2	1983	3.2
1984	4.3	1985	3.5
1986	1.9	1987	3.7
1988	4.1	1989	4.8
1990	5.4	1991	4.2
1992	3.3	1993	2.7
1994	2.2	1995	2.3
1996	2.2	1997	2.1
1998	0.85	1999	1.42
2000	2.61	<u>2001</u>	<u>1.89</u>

**WSR 02-03-048
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed January 9, 2002, 12:27 p.m., effective January 9, 2002]

Date of Adoption: January 9, 2002.

Purpose: **Chapter 296-150M WAC, Manufactured homes.**

The purpose of this rule making is to adopt the emergency rules that are in effect (see WSR 01-08-010) and to make changes resulting from legislation (chapter 335, Laws of 2001, ESSB 5703) enacted in 2001. These rules are necessary to:

- Clarify our current variance process to allow alternate materials, alternate design, and methods of construction to be approved provided they do not constitute a hazard to life, safety, or health;

- Allow for the sale of a manufactured/mobile home by a homeowner that purchased a manufactured/mobile home without receiving all of the required insignia provided they identify it in the disclosure statement (similar to what is currently allowed for site-built homes), which is required prior to the sale of the home; and
- Establish provisions to specify exemptions from the permit requirements.

Citation of Existing Rules Affected by this Order:

AMENDED SECTIONS:

WAC 296-150M-0020 What definitions apply to this chapter? Definitions for "repair" and "replacement" were added. In addition, the examples of work that were not considered alterations under the definition of "Alteration" were deleted as they are now included in the new WAC 296-150M-0302.

WAC 296-150M-0140 Do you allow the use of alternate materials, alternate design and method of construction? Amendments are being proposed to clarify our current variance process to allow alternate materials, alternate design, and methods of construction to be approved provided they do not constitute a hazard to life, safety, or health.

NEW SECTIONS:

WAC 296-150M-0049 What must be done prior to the sale of a manufactured (mobile) home by a homeowner? A new section was added to allow for the sale of a manufactured (mobile) home by a homeowner that purchased a manufactured (mobile) home without receiving all of the required insignia provided they identify it in the disclosure statement (similar to what is currently allowed for site-built homes), which is required prior to the sale of the home.

WAC 296-150M-0302 What are some examples of work to manufactured (mobile) homes that either require or do not require a permit and inspection? A new section was added to specify some examples of work to manufactured (mobile) homes that either require or do not require a permit and inspection under this chapter.

Statutory Authority for Adoption: RCW 43.22.340, 43.22.350, 43.22.432, 43.22.434, 43.22.440, and chapter 335, Laws of 2001 (ESSB 5703).

Adopted under notice filed as WSR 01-20-093 on October 3, 2001.

Changes Other than Editing from Proposed to Adopted Version: **WAC 296-150M-0020 What definitions apply to this chapter?** The examples of work that were not considered alterations under the definition of "alteration" were deleted as they are now included in the new WAC 296-150M-0302.

WAC 296-150M-0302 What are some examples of work to manufactured (mobile) homes that either require or do not require a permit and inspection? The examples that were included in the proposed WAC 296-150M-0302 and 296-150M-0304 were replaced in WAC 296-150M-0302 to reflect current department practice and to make the rules easier to understand and use.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

PERMANENT

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 2, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 2, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Several of the provisions included in this rule making were effective, under emergency rules, until November 16, 2001. Because the emergency rules have expired, under current law it is unlawful for any person to lease, sell or offer for sale, within this state, manufactured/mobile homes unless the alterations done to the home meet the requirements of the rules provided for in chapter 296-150M WAC. Without these rules, the department does not have the ability to allow manufactured/mobile homeowners to sell their homes unless they have received all the necessary inspections and retain all of the insignia required by law. This is extremely problematic as it may create an unnecessary financial hardship on manufactured/mobile homeowners. This financial hardship may occur when the manufactured/mobile homeowner purchased a home with nonpermitted alterations or if they had or would like to complete alterations that provide a level of protection that does not constitute a hazard to life, safety, or health but are inconsistent with the rules adopted by the department.

The immediate effective date of these rules is necessary for the preservation of the general welfare by directly addressing public concern that the rules may create a severe financial hardship to manufactured/mobile homeowners. Further, these rules create a greater level of flexibility and do not infringe on the necessary protection to life, safety, and health.

Effective Date of Rule: January 9, 2002.

January 9, 2002
Gary Moore
Director

AMENDATORY SECTION (Amending WSR 00-17-148, filed 8/22/00, effective 9/30/00)

WAC 296-150M-0020 What definitions apply to this chapter? "Alteration" is the replacement, addition, modification, or removal of any equipment or installation that affects the construction, planning considerations, fire safety, or the plumbing, mechanical, and electrical systems of a manufactured home. The installation of whole-house water treatment equipment that requires cutting into the existing plumbing is considered an alteration and requires a permit, an inspection and an alteration insignia.

~~(The following are not considered alterations:~~

- ~~• Repairs to equipment with approved parts; or~~
- ~~• Modification of a fuel burning appliance according to the listing agency's specifications; or~~
- ~~• Adjustment and maintenance of equipment.)~~

"Alteration insignia" is an insignia issued by the department of labor and industries to verify that an alteration to a manufactured home meets the requirements of federal law 24 CFR 3280 and this chapter.

"Anchoring system" is the means used to secure a mobile home to ground anchors or to other approved fastening devices. It may include straps, cables, turnbuckles, bolts, fasteners, and other components.

"ANSI" is the American National Standards Institute, Inc., and the institute's rules applicable to manufactured homes, ANSI A225.1 Manufactured Homes Installation, 1994 edition, except section 3.5.2 - Ground Cover and section 4.1.3.3 - Clearance.

"Authority having jurisdiction" means that either the department of labor and industries or the local jurisdiction is responsible for establishing specific manufactured home standards. The authority for specific manufactured home standards is divided as follows:

- The department of labor and industries establishes standards for manufactured home installation and alterations and performs alteration inspections;
- The local jurisdiction establishes standards for manufactured homes governing the building site and performs installation inspections.

"Building site" is a tract, parcel, or subdivision of land on which a manufactured home is installed.

"DAPIA" is a Design Approval Primary Inspection Agency as approved by the United States Department of Housing and Urban Development.

"Department" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, PO Box 44440, Olympia, WA 98504-4440.

"Design plan" is a design submitted to the department for approval of a manufactured home structural alteration.

"Equipment" means the appliances used in the alteration or installation of a manufactured home.

Examples of appliances that require an alteration inspection include:

- Furnace;
- Water heater;
- Air conditioner; and
- Heat pump.

Examples of appliances that do not require an alteration inspection include:

- Microwave oven;
- Washer;
- Dryer; and
- Dishwasher and range that are connected to their source of power by a plug-in cord.

"Equivalent air conditioning/heat pump components" is equipment that performs the same function and is

compatible with the equipment of another manufacturer, sometimes referred to as mix and match.

"Footing" is the portion of a support system that transmits loads from the manufactured home to the ground.

"Foundation skirting" or **"skirting"** is the material that surrounds and encloses the space under the manufactured home.

"Homeowner" is an individual who owns a manufactured home. Dealers, distributors, and developers are not regarded as homeowners.

"HUD" is the United States Department of Housing and Urban Development with headquarters located in Washington, D.C.

"Installation" is the activity needed to prepare a building site and to set a manufactured home within that site. Site means a tract, parcel, or subdivision of land including a mobile home park.

"IPIA" is a manufactured home production Inspection Primary Inspection Agency approved by the United States Department of Housing and Urban Development. The department of labor and industries is the IPIA for Washington state.

"Local enforcement agency" is an agency of city or county government with power to enforce local regulations governing the building site and installation of a manufactured home.

"Manufactured home" is a single-family dwelling built according to the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Act, which is a national, preemptive building code. A manufactured home also:

- Includes plumbing, heating, air conditioning, and electrical systems;
- Is built on a permanent chassis; and
- Can be transported in one or more sections with each section at least eight feet wide and forty feet long when transported; or when installed on the site is three hundred twenty square feet or greater (see RCW 46.04.302).

Note: Total square feet is based on exterior dimensions measured after installation using the longest horizontal projections. Dimensions may not include bay windows but may include projections containing interior space such as cabinets and expandable rooms.

Exception: A structure that meets the requirements of a manufactured home as set out in 24 CFR 3282.7(u), except the size requirements is considered a manufactured home, if the manufacturer files with the secretary of HUD a certificate noted in CFR 3282.13.

"Mobile home" is a factory-built dwelling built prior to June 15, 1976, to standards other than the HUD Code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since the introduction of the HUD Manufactured Home Construction and Safety Standards Act. For the purposes of this chapter references to manufactured homes include mobile homes.

"Park site" is the installation location of a manufactured home within a residential area for manufactured homes.

"Repair" is to restore an item to sound condition, to fix.

"Replacement" is the act or process of replacing, to substitute.

"Structural alteration-custom design" is a design that can only be used once.

"Structural alteration-master design" is a design plan that can be used more than once. The master plan expires when there is a code change applicable to the design.

"System" is part of a manufactured home designed to serve a particular function such as structural, plumbing, mechanical, or electrical functions.

NEW SECTION

WAC 296-150M-0049 What must be done prior to the sale of a manufactured (mobile) home by a homeowner? (1) Prior to the sale of any manufactured/mobile home, the homeowner must deliver to the buyer a completed property transfer disclosure statement including all the criteria specified in RCW 64.06.020 and any variance(s) granted according to WAC 296-150M-0140, and:

(a) Have all department insignia required by this chapter; or

(b) Have all department insignia required by this chapter for alterations performed during ownership of the home and include in the property transfer disclosure statement all alterations that were known to have been performed by any previous owner of the home.

(2) Nothing in this section shall have any effect on any written warranty(ies) required by RCW 46.70.135.

(3) Subsection (1)(b) of this section does not apply to unsafe manufactured/mobile homes that the use of which may constitute a hazard to life, safety, or health.

AMENDATORY SECTION (Amending WSR 00-17-148, filed 8/22/00, effective 9/30/00)

WAC 296-150M-0140 Do you allow a variance from these rules for the use of alternate materials, alternate design and methods of construction? ~~((When altering a manufactured home,))~~ An applicant may apply to the director or designee for ((the)) an order for a variance from the requirements of this chapter for alterations initiated after the expiration of any written warranty(ies) required by RCW 46.70.135 that use ((of)) alternate materials, alternate design and methods of construction ((different from the requirements of this chapter)), by filing a written request with the department.

(1) Responsibilities of applicant. The applicant must submit ~~((in writing))~~ the following information ~~((and sign and date the request))~~ on a form approved by the department and pay the inspection fee in WAC 296-150M-3000.

(a) The applicant's name, address and phone number;

(b) The specific requirement or requirements from which the alternate material, alternate design or method of construction is requested;

(c) Justification ~~((that))~~ why the requirements of this chapter cannot be or were not met ((without using alternate materials, alternate design or method of construction)); and

(d) How the use of alternate materials, alternate design or method of construction will achieve ~~((the same result as the requirement and any specific alternative measures to be taken to show the alternate provides the same))~~ or has achieved a level of protection that does not constitute a hazard to life, safety ~~((and))~~ or health ~~((as the requirements))~~.

~~((The department has a form that you may use for your request.))~~ Contact the department at the address shown in the definition section for a copy of the approved form.

(2) Responsibilities of the department. The department will conduct an inspection and provide a written response to the applicant within thirty days of receipt of the written request. The written response will state the acceptance or denial of the request, including the reasons for the department's decision. At a minimum the department will base its decision based on:

- (a) The applicant's request as described in subsection (1) of this section;
- (b) Research into the request;
- (c) Expert advice.
- (3) Applicant's response to denials. The applicant may appeal the department's decision by following the procedure in WAC 296-150M-0100.

NEW SECTION

WAC 296-150M-0302 What are some examples of work to manufactured (mobile) homes that either require or do not require a permit and inspection?

TYPE OF WORK	ALTERATION PERMIT AND INSPECTION REQUIRED?	
	Yes	No
(1) Air Conditioner/Heat Pump		
(a) New installation	X	
(b) Replacement	X	
(c) Reconnection after moving home	X	
(d) Repair		X
(e) Adjustment and/or maintenance		X
(2) Bottom Board - Repair		X
(3) Clothes Washer		
(a) New installation		X
(b) Replacement		X
(c) Repair with approved parts		X
(d) Adjustment and/or maintenance		X
(4) Clothes Dryer (Electric)		
(a) New installation (Pre-wired electrical)		X
(b) Replacement		X
(c) Repair with approved parts		X
(d) Adjustment and/or maintenance		X
(e) Replacement with gas clothes dryer when modifications to electrical or gas systems are performed	X	

(5) Clothes Dryer (Gas)		
(a) New installation (Pre-plumbed gas)		X
(b) Replacement		X
(c) Repair with approved parts		X
(d) Adjustment and/or maintenance		X
(e) Replacement with electric clothes dryer when modifications to electrical or gas systems are performed	X	
(6) Dishwasher		
(a) New installation	X	
(b) Replacement		
(i) Cord connected		X
(ii) Direct wired	X	
(c) Repair		X
(d) Adjustment and/or maintenance		X
(7) Doors (Interior and Exterior)		
(a) Additional*	X	
(b) Replacement of door that fits into the same opening		X
(8) Electrical		
(a) Replacing main electrical panel	X	
(b) Adding circuits	X	
(c) Extending existing circuit(s)	X	
(d) Replacing lighting fixtures	X	
(e) Replacing circuit breakers/fuses		X
(f) Replacing switches, receptacles, light bulbs, fluorescent tubes and glass or plastic shades		X
(g) Repairing bath exhaust fans		X
(h) Repairing fans in kitchen range hoods		X
(9) Exterior Finish		
(a) Painting		X
(10) Furnace (Electric)		
(a) New installation	X	
(b) Replacement	X	
(c) Repair		X
(d) Adjustment and/or maintenance		X
(e) Replacement with gas furnace	X	
(11) Furnace (Gas)		
(a) New installation	X	
(b) Replacement	X	
(c) Repair		X
(d) Change from LP Gas to Natural Gas or from Natural Gas to LP gas per its listing		X
(e) Adjustment and/or maintenance		X
(f) Replacement with electric furnace	X	
(12) Gas Lines		
(a) New installation	X	
(b) Extend existing gas line	X	
(c) Repair	X	

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(13) Interior		
(a) Painting, wall papering and similar finish work		X
(b) Replacement or addition of curtains, drapes, blinds, window shades and other window coverings		X
(c) Replacement of carpeting and other floor-covering materials with similar materials		X
(14) Microwave Oven (Over range)		
(a) New installation when electrical system modifications are performed	X	
(b) Replacement		X
(c) Repair		X
(d) Adjustment and/or maintenance		X
(15) Microwave Oven (Countertop)		
		X
(16) Pellet Stove		
(a) New installation	X	
(b) Replacement	X	
(c) Repair		X
(d) Adjustment and/or maintenance		X
(17) Plumbing		
(a) Adding plumbing fixtures***	X	
(b) Repairing damage***	X	
(c) Replacing fixtures***		X
(d) Repairing fixtures***		X
(e) Replacement/repair of shower doors and curtains		X
(18) Range/Cook Top/Eye Level Oven (Electric)		
(a) Replacement		
(i) Cord connected		X
(ii) Direct wired	X	
(b) Repair with approved parts		X
(c) Adjustment and/or maintenance		X
(d) Replacement with gas appliance(s)	X	
(19) Range/Cook Top/Eye Level Oven (Gas)		
(a) New installation	X	
(b) Replacement		X
(c) Repair with approved parts		X
(d) Adjustment and/or maintenance		X
(e) Replacement with electric appliance(s)	X	
(20) Roofing		
(a) Reroofing	X	
(b) Applying liquid or mastic roof sealant to a metal roof		X
(c) Repair of damaged composition shingles		X
(21) Structural changes		
(a) Adding a dormer*	X	
(b) Truss repairs*	X	

(c) Add opening in wall**	X	
(d) Add gypsum board to walls or ceilings	X	
(e) Repair or replacing floor decking/joists	X	
(22) Water Heater (Electric)		
(a) Replacement w/electric water heater	X	
(b) Repair		X
(c) Adjustment and/or maintenance		X
(d) Replacement with gas water heater	X	
(23) Water Heater (Gas)		
(a) Replacement w/gas water heater	X	
(b) Repair		X
(c) Change from LP gas to Natural Gas or from Natural Gas to LP gas per its listing		X
(d) Adjustment and/or maintenance		X
(e) Replacement with electric water heater	X	
(24) Windows		
(a) Replacement (Except bedroom egress) is same opening with no structural changes		X
(b) Replacement of bedroom egress	X	
(c) Replacement when structural changes are required	X	
(d) Replacement of glass		X
(25) Wood Stove/Fireplace		
(a) New installation	X	
(b) Replacement	X	
(c) Repair		X
(d) Adjustment and/or maintenance		X

* May also require a plan review. Please contact your local L&I representative.

** May also require a plan review. The department has detailed drawings you may use for openings in sidewalls. Please contact your local L&I representative.

*** Fixtures include: faucets, sinks, lavatories, laundry tubs, water closets (toilets), tubs, showers and tub/shower combos.

NOTE: Exemption from the permit and inspection requirements shall not be deemed to grant authorization for any work to be done in violation of the applicable code, Chapter 296-150M WAC.

WSR 02-03-054
PERMANENT RULES
DEPARTMENT OF LICENSING
 [Filed January 10, 2002, 10:51 a.m.]

Date of Adoption: January 8, 2002.

Purpose: Remove reference to a Spokane Department of Licensing office which no longer exists.

Citation of Existing Rules Affected by this Order: Amending WAC 308-124B-150.

Statutory Authority for Adoption: RCW 18.85.040(1).

Adopted under notice filed as WSR 01-23-003 on November 7, 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 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 8, 2002

Alan E. Rathbun, Assistant Director
Business and Professions Division

AMENDATORY SECTION (Amending WSR 99-03-042, filed 1/14/99, effective 2/14/99)

WAC 308-124B-150 Office requirement for brokers actively licensed in another jurisdiction. The term "office" in RCW 18.85.180 for a broker actively licensed in another jurisdiction in which the broker's headquarter office is located shall mean the Washington location where trust account and transaction records are maintained. Such records are required to be maintained for three years. The trust account and transaction records shall be open and accessible to representatives of the department of licensing. The parties to the transaction shall have access to the transaction records prepared or retained for the requesting party.

A broker actively licensed in another jurisdiction seeking licensure in Washington, whose headquarter office is located in that other jurisdiction, shall notify the department of the location address where the records are maintained in the state of Washington and shall include this address with the headquarter's address on the license application.

The Washington license shall be posted at the location where the records are being maintained.

Within thirty days after mailing of the notice of audit, the broker shall come to the department's office, after making an appointment, in the geographic location ((Spokane,)) Seattle(,) or Olympia) nearest to the location of the records to sign the audit report.

WSR 02-03-055

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed January 10, 2002, 10:51 a.m.]

Date of Adoption: January 8, 2002.

Purpose: To mandate three clock hours of prescribed core curriculum for real estate licensees license renewal.

Citation of Existing Rules Affected by this Order: Amending WAC 308-124H-025.

Statutory Authority for Adoption: RCW 18.85.040(1), 43.24.086.

Adopted under notice filed as WSR 01-23-004 on November 7, 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 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 4 [1], Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2 [1], Amended 4 [1], Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 2 [1], Amended 4 [1], Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 8, 2002

Alan E. Rathbun, Assistant Director
Business and Professions Division

NEW SECTION

WAC 308-124H-014 Establishing time frame for approval of core curriculum. The first required core curriculum continuing education courses will be offered for eighteen months, beginning June 1, 2002, ending December 31, 2003. Following the initial introductory core curriculum, the approval period for courses designated as satisfying the core curriculum(s) shall be from January 1 through December 31, a two-year (twenty-four month) period. Courses submitted and approved prior to the two-year period will not be allowed to commence for core curriculum credit until January 1. Courses submitted later than January 1, will still have an expiration date of December 31, making that course approval period less than two years.

AMENDATORY SECTION (Amending WSR 00-08-035, filed 3/29/00, effective 7/1/00)

WAC 308-124H-025 General requirements for course approval. Courses shall meet the following requirements:

(1) Be offered by a private entity approved by the director to operate as a school;

(2) Be offered by a tax-supported, public technical or community college or other institution of higher learning that certifies clock hours as indicated in RCW 18.85.010(9), consistent with the approval standards prescribed by the director and this chapter;

(3) Be offered by the Washington real estate commission;

(4) Have a minimum of three hours of course work or instruction for the student. A clock-hour is a period of fifty minutes of actual instruction;

~~((4))~~ (5) Provide practical information related to the practice of real estate in any of the following real estate topic areas: Fundamentals, practices, principles/essentials, real estate law, legal aspects, brokerage management, business management, taxation, appraisal, evaluating real estate and business opportunities, property management and leasing, construction and land development, ethics and standards of practice, real estate closing practices, current trends and issues, finance, hazardous waste and other environmental issues, commercial, real estate sales and marketing, instructor development or the use of computers and/or other technologies as applied to the practice of real estate;

~~((5))~~ (6) Be under the supervision of an instructor approved to teach the topic area, who shall, at a minimum, be available to respond to specific questions from students on an immediate or reasonably delayed basis;

~~((6))~~ (7) The following types of courses will not be approved for clock hours: Course offerings in mechanical office and business skills, such as, keyboarding, speed-reading, memory improvement, language, and report writing; orientation courses for licensees, such as those offered by trade associations; and personal and sales motivation courses or sales meetings held in conjunction with a licensee's general business. Clock hours will not be awarded for any course time devoted to meals or transportation;

~~((7))~~ (8) Courses of thirty clock hours or more which are submitted for approval shall include a comprehensive examination(s) and answer key(s) of no fewer than three questions per clock hour with a minimum of ninety questions, and a requirement of passing course grade of at least seventy percent; essay question examination keys shall identify the material to be tested and the points assigned for each question;

~~((8))~~ (9) Include textbook or instructional materials approved by the director, which shall be kept accurate and current; ~~((and))~~

~~((9))~~ (10) Not have a title which misleads the public as to the subject matter of the course;

(11) Courses offering the prescribed core curriculum shall meet the requirements of WAC 308-124A-605;

(12) Only primary providers shall be approved to teach the prescribed core curriculum; and

(13) Course providers offering core curriculum within a course exceeding three clock hours must clearly indicate in the application for approval where the core curriculum elements are met in the course.

Purpose: Add a new subsection to the rule which will allow for the withdrawal of course approvals granted by the mistake or inadvertence of the director.

Citation of Existing Rules Affected by this Order: Amending WAC 308-124H-061 and 308-124H-062.

Statutory Authority for Adoption: RCW 18.85.040(1).

Adopted under notice filed as WSR 01-23-005 on November 7, 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 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 2, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 2, 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 8, 2002

Alan E. Rathbun, Assistant Director
Business and Professions Division

AMENDATORY SECTION (Amending WSR 00-08-035, filed 3/29/00, effective 7/1/00)

WAC 308-124H-061 Grounds for denial or withdrawal of course approval. Course approval may be denied or withdrawn if the instructor or any owner, administrator or affiliated representative of a school, or a course provider or developer:

(1) Submits a false or incomplete course application or any other information required to be submitted to the department;

(2) Includes in its title the phrase "real estate fundamentals," "real estate brokerage management," "real estate law," "business management," and "real estate practice" if the course was not submitted for approval of clock hours pursuant to WAC 308-124H-012;

(3) If the title of the course misleads the public and/or licensees as to the subject matter of the course;

(4) If course materials are not updated within thirty days of the effective date of a change in the statute or rules;

(5) If course content or material changes are not submitted to the department for approval prior to the date of using the changed course content;

(6) Failed to meet the requirements under WAC 308-124H-025;

(7) If a course or prescribed core curriculum was approved through the mistake or inadvertence of the director;

(8) If course approval was granted through the mistake or inadvertence of the director.

WSR 02-03-056

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed January 10, 2002, 10:51 a.m.]

Date of Adoption: January 8, 2001 [2002].

AMENDATORY SECTION (Amending WSR 00-08-035, filed 3/29/00, effective 7/1/00)

WAC 308-124H-062 Hearing procedure. Upon notice of course denial or disapproval or withdrawal of course approval, a person is entitled to a hearing conducted in accordance with the Administrative Procedure Act, chapter 34.05 RCW, and the provisions of WAC 308-124-025, 308-124-035 and 308-124-045.

To exercise the right to a hearing under this section, a person must request a hearing within twenty days after receipt of the notice of denial, disapproval or withdrawal of course approval.

Any person aggrieved by a final decision of the director or authorized representative of the director is entitled to judicial review under the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

WSR 02-03-057
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed January 10, 2002, 10:51 a.m., effective May 1, 2002]

Date of Adoption: January 8, 2002.

Purpose: To increase real estate license fees and renewal license fees to meet the real estate regulatory program budget demands.

Citation of Existing Rules Affected by this Order: Amending WAC 308-124A-460.

Statutory Authority for Adoption: RCW 18.85.040(1), 43.24.086.

Adopted under notice filed as WSR 01-23-006 on November 7, 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 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: May 1, 2002.

January 8, 2002.

Alan E. Rathbun, Assistant Director
 Business and Professions Division

AMENDATORY SECTION (Amending WSR 99-03-042, filed 1/14/99, effective 7/1/99)

WAC 308-124A-460 Real estate brokers and salespersons and land development representative fees. These fees are applicable to all original licenses, examination services, and fee generating services issued or performed after (~~June 30, 1999~~) April 30, 2002, and all renewals for existing licenses with expiration date after (~~June 30, 1999~~) April 30, 2002. The following fees for a two-year period shall be charged by professional licensing services of the department of licensing:

Title of Fee	Fee
Real estate broker:	
Application/examination	\$138.25
Reexamination	138.25
Original license	((170.00)) <u>200.00</u>
License renewal	((170.00)) <u>200.00</u>
Late renewal with penalty	((196.50)) <u>226.50</u>
Duplicate license	26.50
Certification	26.50
Name or address change, transfer or license activation	26.50
Real estate broker - Branch office:	
Original license	((159.50)) <u>189.50</u>
License renewal	((159.50)) <u>189.50</u>
Late renewal with penalty	((186.00)) <u>216.00</u>
Duplicate license	26.50
Name or address change	26.50
Real estate salesperson:	
Application/examination	\$138.25
Reexamination	138.25
Original license	((106.25)) <u>136.25</u>
License renewal	((106.25)) <u>136.25</u>
Late renewal with penalty	((132.75)) <u>162.75</u>
Duplicate license	26.50
Certification	26.50
Name or address change, transfer or license activation	26.50
The following fee shall be charged annually for land development representatives:	
Land development representative:	
Registration	26.50

PERMANENT

WSR 02-03-061

PERMANENT RULES

PERSONNEL RESOURCES BOARD

[Filed January 10, 2002, 2:00 p.m., effective March 1, 2002]

Date of Adoption: January 10, 2002.

Purpose: The purpose of this rule is to address the disposition and computation of accrued vacation leave.

Citation of Existing Rules Affected by this Order: Amending WAC 356-18-100.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 01-24-051 on November 29, 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 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: March 1, 2002.

January 10, 2002

E. C. Matt

Secretary

AMENDATORY SECTION (Amending WSR 87-13-039 (Order 277), filed 6/15/87, effective 8/1/87)

WAC 356-18-100 Accrued vacation leave disposition—Computation—How made. (1) When an employee separates from service by reason of resignation with adequate notice, layoff, dismissal, retirement or death, he or she is entitled to a lump sum payment of unused vacation leave, except as provided in 356-18-110. The compensation shall be computed by using the formula published by the office of financial management. No contributions are to be made to the department of retirement systems (DRS) for lump sum payment of excess vacation leave accumulated under the provisions of WAC 356-18-095(2), nor shall such payment be reported to the DRS as compensation.

(2) Employees may defer the payment of their accumulated vacation leave for which otherwise entitled for a period of 30 working days if the separation resulted from a reduction in force and there is a reasonable probability of reemployment, or if the separation resulted from employees returning to classified positions from exempt positions under the provision of RCW 41.06.070(22), 41.06.100, or WAC 356-06-055. Seasonal career employees, as defined in WAC 356-05-380, may defer payment of their accumulated vacation leave during the period between consecutive employment cycles.

~~((3) If employees are paid for the accumulated vacation leave and are reemployed within the period of time represented by the number of days for which vacation pay was received, employees must return the payment for the remaining vacation days. Employees will be credited with the number of vacation days represented by the returned payments at the rate of their last salary.))~~

~~((4)) (3) The separation cited in subsection (2) of this section will not be regarded as a break in service for purposes of computing the rates of crediting vacation leave prescribed in WAC 356-18-090, provided the employees return to employment other than by certification from the open competitive register.~~

WSR 02-03-062

PERMANENT RULES

PERSONNEL RESOURCES BOARD

[Filed January 10, 2002, 2:02 p.m., effective March 1, 2002]

Date of Adoption: January 10, 2002.

Purpose: This modification will allow removal of an applicant/employee's name from a referral and/or register if it has been determined they are ineligible in accordance with WAC 356-30-012.

Citation of Existing Rules Affected by this Order: Amending WAC 356-26-040.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 01-24-052 on November 29, 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 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: March 1, 2002.

January 10, 2002

E. C. Matt

Secretary

AMENDATORY SECTION (Amending WSR 01-17-082, filed 8/16/01, effective 9/16/01)

WAC 356-26-040 Registers—Name removal for cause—Grounds enumerated—Requirements. (1) The director of personnel or designee may remove the name of an eligible from a register and/or certification for any of the following reasons:

(a) For any of the causes stipulated in the chapter on appeals (WAC 356-34-010).

(b) On evidence that the eligible cannot be located by the postal authorities.

(c) On receipt of a statement from the eligible declining an appointment and/or future interest in positions in that class.

(d) If a candidate from a reduction in force register or a dual agency reversion register has waived three offers of employment for a position in the class for which the register was established.

(e) If a candidate from a promotional or open competitive register has waived consideration three times for a position in the class for which the register was established.

(f) If an eligible fails to reply to a written inquiry as to availability after five days in addition to the time required to receive and return the inquiry.

(g) If an eligible accepts an appointment and fails to report for duty at the time and place specified without giving satisfactory reasons for the delay to the appointing authority.

(h) If an eligible was certified and reported "not satisfactory" on three occasions or if the eligible was certified and the appointing authority reported the eligible "considered but not appointed" on four separate occasions, or if the appointing authority reports either "not satisfactory" or "considered but not appointed" for a total of four times. The director of personnel or designee will monitor all name removals for adverse effect and/or disparate treatment of affected group members. If a candidate is removed from a register for this reason, that candidate is not eligible to reapply for that same job class for one year.

(i) If an open competitive eligible indicates availability in a specific geographic area and subsequently refuses referral or appointment to a position in that area.

(j) If the appointing authority reports that the eligible was offered employment but could not comply with the personal identification and work authorization requirements of the federal Immigration Reform and Control Act (I.R.C.A.).

(k) If an applicant/employee has been determined to be ineligible to be employed in a covered position in accordance with WAC 356-30-012, the applicant/employee's name may be removed from any referral for a covered position and/or any register where all positions in that classification are covered positions.

(2) The director of personnel or designee shall notify the eligible of this action and the reasons therefore by mail to the last known address, except in those cases in subsection (1)(b) or (c) of this section. The director of personnel or designee will advise the eligible of the right to appeal.

(3) An eligible's name shall be reinstated on the register upon showing of cause satisfactory to the director of personnel or in accordance with the decision of the board upon appeal.

WSR 02-03-063

PERMANENT RULES

PERSONNEL RESOURCES BOARD

[Filed January 10, 2002, 2:03 p.m., effective March 1, 2002]

Date of Adoption: January 10, 2002.

Purpose: The purpose of these rules is to address selectives, the new rule will define the term "selective." The modification to WAC 356-26-130 will coincide with the definition of "selective."

Citation of Existing Rules Affected by this Order:
Amending WAC 356-26-130.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 01-24-053 on November 29, 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 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 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 1, Amended 1, Repealed 0.

Effective Date of Rule: March 1, 2002.

January 10, 2002

E. C. Matt

Secretary

PERMANENT

NEW SECTION

WAC 356-05-389 Selective. Specialized qualifications that are required for the successful performance of the duties of a position and cannot be gained within the probationary or trial service period.

AMENDATORY SECTION (Amending WSR 87-02-038 (Order 267), filed 1/2/87)

WAC 356-26-130 Certification—Selective—When permitted. An appointing authority may request a selective certification of eligibles who have specialized qualifications that are required for the successful performance of the duties of the position, and cannot be gained within ~~((a reasonable time, not to exceed))~~ the probationary or trial service period. This request must be made prior to certification.

If the director of personnel determines that the facts and reasons justify the request, the highest ranking eligibles who have the specialized qualifications shall be certified.

(1) Selective certification based on gender shall not be made without a bona fide occupational qualification approved by the human rights commission.

(2) The director of personnel may selectively certify eligibles who are filling project positions to fill permanent positions. Such selective certification shall apply only from names on an open competitive register.

(3) Selective certification of eligibles who possess an appropriate, valid motor vehicle operator's license may be required for positions whose duties require specific driving skills.

WSR 02-03-069
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed January 11, 2002, 8:06 a.m.]

Date of Adoption: January 11, 2002.

Purpose: The department has reviewed the rules and recommends repealing, amending and adding a new section to chapter 36-12 WAC.

Citation of Existing Rules Affected by this Order: Repealing WAC 36-12-010, 36-12-060, 36-12-080, 36-12-120, 36-12-160, 36-12-210, 36-12-220, 36-12-330, 36-12-340, 36-12-350 and 36-12-363; and amending WAC 36-12-011, 36-12-020, 36-12-030, 36-12-040, 36-12-050, 36-12-070, 36-12-100, 36-12-110, 36-12-130, 36-12-140, 36-12-150, 36-12-170, 36-12-190, 36-12-200, 36-12-240, 36-12-250, 36-12-260, 36-12-270, 36-12-280, 36-12-290, 36-12-300, 36-12-310, 36-12-320, 36-12-360, 36-12-364, and 36-12-465.

Statutory Authority for Adoption: RCW 67.08.017 (1), (9).

Adopted under notice filed as WSR 01-23-085 on November 21, 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 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 26, Repealed 11.

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, 2002

Alan E. Rathbun
Assistant Director

AMENDATORY SECTION (Amending WSR 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-011 (~~"Promoter," "purse" defined.~~)
Definitions. ((For purposes of brevity, in the following rules

~~the word "promoter" will be used to designate a club, corporation, organization, association or person holding license from the department. "Purse" will designate the sum of money or other compensation by way of guarantee, percentage or otherwise, paid to boxer.)) The following definitions will be used throughout this WAC:~~

(1) "Purse" will be defined as the sum of money or other compensation by way of guarantee, percentage or otherwise, paid to a boxer.

(2) "Knockdown" is defined as when a boxer is knocked to the ring canvas by fair blows, hangs helplessly on the ropes, or the ropes prevent his/her fall, or any part of the body other than the soles of the feet touches the ring canvas.

(3) The "outcome of a contest" occurs when the contest has concluded, a determination has been made described in WAC 36-12-130, and the report to the boxing registry required by the federal Boxing Safety Act of 1996 has been submitted.

(4) "Neutral corner" is defined as one of the two corners of a ring that are not assigned to a boxer for a contest.

(5) A "count" is the audible measure of time signaled by the referee to a boxer who has been knocked to the ring canvas by fair blows or to a standing boxer who, in the referee's judgment, is momentarily unable to defend him/herself.

(6) "Scorecard" is defined as the document used by judges to score a contest.

(7) "Ten-point-must system" of scoring is defined as the scoring system used by judges giving ten points to the boxer winning a round and a lesser number of points to the boxer losing a round.

(8) "Foul" is defined as an action by a boxer, identified by the referee that does not meet the definition of "boxing" as described in RCW 67.08.002. Fouls may include, but are not limited to, the following types of contact or acts:

(a) Hitting, a low blow, below the navel or behind the ear;

(b) Hitting an opponent who is knocked down;

(c) Holding an opponent with one hand and hitting with the other;

(d) Holding or deliberately maintaining a clinch;

(e) Wrestling, kicking or roughing;

(f) Pushing an opponent about the ring or into the ropes;

(g) Butting with the head, shoulder, knee, elbow;

(h) Hitting with the open glove, the butt or inside of the hand, or back of the hand, the elbow or the wrist;

(i) Purposely falling down onto the canvas of the ring without being hit or for the purpose of avoiding a blow;

(j) Striking deliberately at that part of the body over the kidneys;

(k) Using the pivot blow (pivoting while throwing a punch) or the rabbit punch (punches thrown to the back of the head and neck areas);

(l) Jabbing the eyes with the thumb of the glove;

(m) Use of abusive language;

(n) Unsportsmanlike conduct causing injury to an opponent that does not meet the definition of "boxing" in RCW 67.08.002;

(o) Hitting on the break;

(p) Intentionally spitting out the mouthpiece;

(q) Hitting on or out of the ropes;

- (r) Holding rope and hitting;
- (s) Biting/spitting;
- (t) Not following referee's instructions;
- (u) Stepping on opponent;
- (v) Crouching below opponent's belt;
- (w) Leaving neutral corner; and
- (x) Corner second shouting.

(9) "Fair blow" is defined as an exchange of blows delivered with the padded knuckle part of the glove to the front or sides of the head and body above the navel.

(10) "Event official" is defined as an official licensed under RCW 67.08.100 as a judge, referee, timekeeper, event physician, and/or inspector and appointed by the department to provide services at a boxing event.

(11) "Manager" is defined as a person licensed under RCW 67.08.100 who contracts with a boxer to receive compensation for service as an agent or representative.

(12) "Second" is defined as a person licensed under RCW 67.08.100 who assists a boxer during a contest.

(13) "Matchmaker" is defined as a person licensed under RCW 67.08.100 who works for a promoter to propose, select or arrange for boxers to participate in a boxing contest.

(14) "Announcer" is defined as a person licensed under RCW 67.08.100 who works for a promoter announcing information to the audience at a boxing event.

(15) "Referee" is defined as an event official and is the chief official supervising a boxing contest.

(16) "Timekeeper" is defined as an event official who keeps the official timing of a contest.

(17) "Judge" is defined as an event official who scores a boxing contest.

(18) "Inspector" is defined as the event official who reports directly to the department and provides overall management of a boxing event.

(19) "Advance notice" is defined as a list of matches for an event submitted by the promoter to the department for approval that includes the names of proposed boxers for a contest, his/her manager or managers and other information that may be required by the department.

(20) "Boxing registry" is defined as the entity certified by the Association of Boxing Commissions for the purposes of maintaining records and identification of boxers and required under the federal "Professional Boxing Safety Act of 1996."

(21) "Contest" is defined as a fight scheduled between boxers appearing at an event.

(22) "Round" is defined as a two- or three-minute time period during which boxers compete in a boxing contest.

(23) "Net gate proceeds" is defined as the total dollar amount received from the face value of all tickets sold with complimentary tickets excluded.

AMENDATORY SECTION (Amending WSR 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-020 Guidelines for boxing weight((s and)) classes, weight difference and glove weight.

((Strawweight up to 105 pounds
Light Flyweight over 105 to 108 pounds

Flyweight over 108 to 112 pounds
 Super Flyweight over 112 to 115 pounds
 Bantamweight over 115 to 118 pounds
 Super Bantamweight over 118 to 122 pounds
 Featherweight over 122 to 126 pounds
 Super Featherweight over 126 to 130 pounds
 Lightweight over 130 to 135 pounds
 Super Lightweight over 135 to 140 pounds
 Welterweight over 140 to 147 pounds
 Super Welterweight over 147 to 154 pounds
 Middleweight over 154 to 160 pounds
 Super Middleweight over 160 to 168 pounds
 Light Heavyweight over 168 to 175 pounds
 Cruiserweight over 175 to 195 pounds
 Heavyweight all over 195 pounds

No contests shall be scheduled, and no contestants shall engage in a boxing contest where the weight difference exceeds the allowance as shown in the following schedule, without the written approval of the department.

Up to 118 lbs. not more than 3 lbs.
 118 lbs. 126 lbs. not more than 5 lbs.
 126 lbs. 135 lbs. not more than 7 lbs.
 135 lbs. 147 lbs. not more than 9 lbs.
 147 lbs. 160 lbs. not more than 11 lbs.
 160 lbs. 175 lbs. not more than 12 lbs.
 175 lbs. 195 lbs. not more than 20 lbs.
 195 lbs. and over, no limit.))

The following guidelines shall be used for contests unless the department waives the weight difference allowance in writing.

Weight Class	Weight Difference Allowance	Glove Weight
Strawweight	up to and including 105 pounds	not more than 3 lbs.
Light Flyweight	over 105 to 108 pounds	not more than 3 lbs.
Flyweight	over 108 to 112 pounds	not more than 3 lbs.
Super Flyweight	over 112 to 115 pounds	not more than 3 lbs.
Bantamweight	over 115 to 118 pounds	not more than 3 lbs.
Super Bantamweight	over 118 to 122 pounds	not more than 5 lbs.
Featherweight	over 122 to 126 pounds	not more than 5 lbs.
Super Featherweight	over 126 to 130 pounds	not more than 7 lbs.
Lightweight	over 130 to 135 pounds	not more than 7 lbs.
Super Lightweight	over 135 to 140 pounds	not more than 9 lbs.

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<u>Welterweight</u>	<u>over 140 to 147 pounds</u>	<u>not more than 9 lbs.</u>	<u>8 oz.</u>
<u>Super Welterweight</u>	<u>over 147 to 154 pounds</u>	<u>not more than 11 lbs.</u>	<u>8 oz.</u>
<u>Middleweight</u>	<u>over 154 to 160 pounds</u>	<u>not more than 11 lbs.</u>	<u>10 oz.</u>
<u>Super Middleweight</u>	<u>over 160 to 168 pounds</u>	<u>not more than 12 lbs.</u>	<u>10 oz.</u>
<u>Light Heavyweight</u>	<u>over 168 to 175 pounds</u>	<u>not more than 12 lbs.</u>	<u>10 oz.</u>
<u>Cruiserweight</u>	<u>over 175 to 195 pounds</u>	<u>not more than 20 lbs.</u>	<u>10 oz.</u>
<u>Heavyweight</u>	<u>over 195 pounds</u>	<u>no limit</u>	<u>10 oz.</u>

AMENDATORY SECTION (Amending WSR 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-030 ~~((Weighing time.))~~ Weigh-in. (1) ~~((Contestants))~~ Boxers shall be weighed within twenty-four hours ~~((of))~~ prior to the scheduled event, at ((the)) a time ((designated)) and place chosen by the promoter and approved by the department~~((, in the presence of each other, the inspector and a promoter representative on scales approved by the department at such place or places as may be designated by consent of a department inspector. By special permission of the department, preliminary boxers may be allowed to weigh in and be examined not later than one hour before the scheduled time of the first match on the card. The weight of each contestant shall be recorded on a report sheet approved by the department.~~

~~((2))~~ At the official weighing in of all contestants, representatives of print or electronic news media shall, upon request, be admitted). The weigh-in shall take place in the presence of the department and the promoter or the promoter's representative.

(2) The scales used for weigh-in shall be provided by the promoter and approved by the department.

(3) The weight of each boxer shall be recorded on a form provided by the department and signed by the representative of the department.

(4) If a boxer weighs-in within twenty-four hours, but not less than twelve hours prior to an event's scheduled start time, the boxer shall weigh the weight specified on the boxer/promoter contract referred to in WAC 36-12-360(6). If a boxer weighs more than the weight specified in the boxer/promoter contract, the boxer may:

(a) Lose the weight exceeded in the boxer/promoter contract at least twelve hours prior to the event's scheduled start time;

(b) Lose all but two pounds of the weight exceeded in the boxer/promoter contract at least twelve hours prior to the event's scheduled start time and lose the final two pounds at least two hours prior to the event's scheduled start time;

(c) Renegotiate the boxer/promoter contract; or

(d) Not do (a) through (c) of this subsection and the contest will be canceled by the department.

(5) If a boxer weighs-in less than twelve hours prior to an event's scheduled start time, the boxer shall weigh the weight specified in the boxer/promoter contract referred to in WAC 36-12-360(6). If a boxer weighs more than two pounds over

the weight specified in the boxer/promoter contract, the boxer may:

(a) Lose up to two pounds at least two hours prior to an event's scheduled start time;

(b) Renegotiate the boxer/promoter contract; or

(c) Not do (a) or (b) of this subsection and the contest will be canceled by the department.

AMENDATORY SECTION (Amending WSR 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-040 Ring and equipment. (1) ~~((Ring.))~~ The promoter shall supply a ring that meets the following standards:

(a) The ring shall be not less than ((seventeen-feet)) a sixteen-foot square or more than a twenty-four ((feet)) foot square measured within the ropes.

(b) The ring floor shall extend at least twenty-four inches beyond the ring ropes ((not less than eighteen inches. The ring floor shall be padded in a manner as approved by the department)) and shall be covered with one inch of padding. Padding must extend beyond the ring ropes and over the edge of the platform ((with a top covering of canvass, duck or similar material)) covered by canvas tightly stretched and ((laed)) securely attached to the ring platform. ((Material that tends to gather in lumps or ridges must not be used. Covering material)) Canvas must be ((in a)) clean ((and sanitary condition)).

~~((2))~~ Height of ring. (c) The ring platform shall not be more than four feet above the floor of the building, and shall ((be provided with suitable steps for use of contestants)) have safe steps.

(d) Ring posts shall be of metal, not more than four inches in diameter, extending ((from the floor of the building)) to a height of fifty-eight inches above the ring floor((, and shall be properly padded. Ring posts shall be at least eighteen inches away from the ropes)) and placed at least twenty-four inches behind the rope corners.

~~((3))~~ Ring ropes. Ring ropes (e) There shall be ((at least four in number,)) four ring ropes not less than one inch in diameter ((and)), wrapped in soft material. The ropes shall be manila rope of standard manufacture. No wire or cable shall be used. The ((spacing of ropes shall consist of the)) lower rope shall be eighteen inches above the ring floor, the second rope thirty inches above the floor, the third rope forty-two inches above the floor, and the fourth rope fifty-four inches above the floor. The lower rope shall have ((applied around it a padding of a thickness of not less than one-half inch and of a type and construction to be approved by the department)) at least one-half inch of padding. Two vertical stays or rope spacers ((of an elastic composition)) shall be ((utilized for additional rope stability. The vertical stays or rope spacers shall be)) evenly spaced between the ((ring posts)) rope corners on all four sides of the ring ((so as to maximize efficiency)).

~~((4))~~ Bell. There shall be a bell at the ring no higher than the level of the ring platform. The bell shall be of a clear tone so that the contestants and officials may easily hear it.

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~~(5) **Obstructions.** When the ten second signal is given by the timekeeper, all items shall be promptly cleared from the ring and no items shall be left on the ring platform at the time the bell sounds to start the round.)) (2) The promoter shall provide equipment for use by the seconds and boxers at ringside. Equipment shall consist of, but not be limited to, a corner stool, spit bucket, ice, towels, and any other items necessary for the health and safety of the boxers.~~

AMENDATORY SECTION (Amending WSR 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-050 Gloves. (1) ~~((Gloves shall be examined by the inspector or his designated representative. If padding is found to be misplaced or lumpy, or if gloves are found to be not in compliance with this chapter, or ill-fitting, they shall be changed before the contest starts. No breaking, skinning, roughing or twisting of gloves shall be permitted.~~

~~(2)) Promoters shall supply gloves that meet the following standards:~~

~~(a) Gloves for all main events shall be new((;)) and ((furnished by club management, and so made as to)) fit the hands of ((any)) the contestants ((whose hands may be unusual in size)).~~

~~((3) **Any**) (b) Gloves shall be whole, clean, ((in)) sanitary, in good condition, and subject to inspection by the inspector ((or designated representative for compliance with this chapter. Any)). Gloves found to be unfit or ill-fitting, shall be ((immediately discarded and replaced with gloves which comply with this chapter)) replaced. Gloves shall not be altered.~~

~~(c) One set each of eight-ounce and ten-ounce gloves shall be provided to the inspector prior to the start of the first contest for use in case gloves are damaged during a contest.~~

~~((4) In addition to those gloves which are required to be furnished by a promoter at a contest at least one additional set of eight ounce and at least one additional set of ten ounce gloves shall be provided for use in case gloves are broken or in any way damaged during a contest. These extra sets of gloves shall be placed in the custody of the department representative at ringside prior to the start of the first contest.~~

~~(5) Contestants in all weight classes from strawweight through the welterweight class, shall wear no less than eight-ounce gloves. In all other classes, contestants shall wear no less than ten-ounce gloves. When two contestants differ in weight classes, the contestants)) (2) All boxers weighing 154 pounds or less shall wear eight-ounce gloves. All boxers weighing more than 154 pounds shall wear ten-ounce gloves.~~

~~(3) When two boxers in a contest are above and below the weights described in subsection (2) of this section, both boxers shall wear the gloves required for the higher weight ((classification)).~~

~~((6)) (4) Gloves must have the distal portion of the thumb attached to the body of the glove so as to minimize the possibility of injury to an opponent's eye.~~

~~((7) **Any**) (5) A glove or set of gloves ((may be)) shall only be used once during ((the course of a)) each boxing ((program and shall immediately after such use be wiped in their entirety with a damp cloth which has been soaked in a solution of water and ten percent chlorine bleach)) event.~~

(6) In each contest, both boxers must wear gloves of the same manufacture.

AMENDATORY SECTION (Amending WSR 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-070 ((**Bandages.**) **Hand-wraps.** ((+)) Bandages shall not exceed the following restrictions: One winding of surgeon's adhesive tape not over one and one-half inches wide, placed directly on the hand to protect that part of the hand near the wrist. Said tape may cross the back of the hand twice, but shall not extend within one inch of the knuckles when hand is clenched to make a fist.

~~(2) Contestants shall use soft surgical bandages not over two inches wide, held in place by not more than two yards of surgeon's adhesive tape for each hand. One ten yard roll of bandage shall complete the wrappings for each hand. Bandages shall be applied in the dressing room in the presence of the inspector or a designated representative and both contestants. A contestant may waive the privilege of witnessing the bandaging of his or her opponent's hands.)) (1) Hand-wraps shall be applied in the dressing room. The hand-wraps for each hand shall be applied in the following manner:~~

~~(a) Hand-wraps shall be restricted to no more than twenty yards of soft gauze, not more than two inches wide. The gauze shall be held in place by no more than eight feet of adhesive tape no more than one and one-half inches wide.~~

~~(b) The adhesive tape shall not cover any part of the knuckles when the hand is clenched to make a fist.~~

~~(c) Liquids or other materials shall not be used on the tape or gauze.~~

~~(2) The referee or department designee shall inspect and sign the hand-wraps.~~

AMENDATORY SECTION (Amending WSR 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-100 Officials. (1) ~~The ((officials of boxing events shall consist of a minimum of)) department shall appoint at least two referees, a timekeeper, ((a)) an event physician, three judges, and an inspector for each event. ((One extra referee and judge may be assigned to boxing events that have 40 to 49 rounds of boxing scheduled and two extra referees and judges may be assigned to events that have 50 or more rounds scheduled.)) Additional event officials may ((also be added to an event when deemed appropriate)) be appointed by the department ((for the protection of the participants. The event officials shall be assigned by the department)).~~

~~(2) ((No licensee shall verbally or physically abuse a referee or any other event official)) In order to ensure the health and safety of the contestants and officials, licensed event officials not appointed to work at a boxing event shall be admitted to a boxing event without charge by the promoter. These officials shall report to the department immediately upon arriving at the event for appointment as back-up to appointed event officials or for other duties.~~

(3) Event officials shall dress in appropriate attire.

AMENDATORY SECTION (Amending WSR 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-110 Referee's responsibilities/authority.

(1) ~~((The chief official of boxing events shall be the referee, who shall have general supervision over bouts and take his or her place in the ring prior to each contest.))~~ The referee's primary responsibility shall be to maintain the safety and welfare of the ~~((contestants foremost))~~ boxers at all times.

(2) ~~((The referee shall,))~~ Before starting a contest, ~~((ascertain from each contestant the name of his or her chief second, and shall hold said chief second responsible for the conduct of his or her assistant seconds during the progress of))~~ the referee shall determine the name of the chief seconds for each boxer. The chief second shall be responsible for the conduct of the boxer's other seconds during the contest.

(3) The referee shall call ~~((contestants together before each bout for final instructions, at which time each contestant shall be accompanied by his or her chief second only. The contestants, after receiving instructions, shall touch gloves and retire to their corners. The contestants shall not intentionally touch gloves at the beginning of a round again until the beginning of the final scheduled round.))~~

(4) No person other than the contestants and the referee may ~~((boxers and their chief seconds into the ring at the beginning of each contest for instructions.))~~

(4) The referee shall not allow any person other than the boxers and the event physician to enter the ring during ~~((the progress of))~~ a round ~~((except at the direction or request of a referee)).~~

(5) The referee ~~((, in lieu of the inspector or designated representative, may inspect the bandages and the gloves and))~~ shall inspect the boxers' bodies and gloves to make sure that no ~~((foreign))~~ substances have been applied to ~~((either the gloves or any part of a boxer's head or body to))~~ the detriment of an opponent.

(6) ~~((Referees shall wear dark trousers, light blue shirt and bow tie or uniforms subject to approval of the department.))~~

(7) ~~All referees must take an annual physical and eye examination similar to that given to all applicants for a boxers' license. The results of the examination shall be provided to the department. Referees shall be examined, during the day a contest is to be held, by the department physician for the purpose of determining his or her suitability for officiating in the contest. If such examination indicates the referee is unfit to perform his or her duties during the contest, such fact should be immediately reported by the examining physician to the inspector, who shall take appropriate action to replace such referee.))~~ Referees who are event officials shall pass a physical examination by the event physician within twenty-four hours prior to an event for the purpose of determining their physical ability to referee the contest. If such examination indicates the referee is physically unable to referee the contest, such inability shall be noted on the prefight physical form and immediately be reported to the inspector.

(7) The referee shall have the authority to stop a contest any time he/she thinks it is too one-sided, or if either boxer is in such condition that to continue might subject them to serious injury.

(8) The referee shall not make a disqualification decision based on one unintentional, low-blow foul. However, if two previous warnings for such fouls have resulted in point deductions, the third foul may be grounds for disqualification.

(9) The referee has authority to decide any matters that arise during a contest and are not covered by these rules.

(10) If a boxer receives an injury that the referee thinks shall incapacitate the boxer, the referee shall ask the event physician to examine the boxer. The event physician shall provide the referee with an opinion as to the seriousness of the injury and either the event physician or the referee shall stop the contest if the injury is serious. When a referee calls the event physician into the ring, the referee shall direct the timekeeper to cease keeping time while the event physician examines the boxer.

(11) The referee may penalize a boxer who fouls an opponent during a contest, by charging such boxer with the loss of points. The referee shall immediately notify the judges of the number of points to be deducted.

(12) The referee shall stop the contest if the boxer's chief second determines that a contest should be stopped, and immediately signals the referee by stepping onto the ring apron.

(13) When a boxer resumes boxing after having been knocked down or fallen or slipped to the floor, the referee shall wipe all foreign material from the boxer's gloves.

(14) The referee shall give a boxer injured by a low-blow foul up to five minutes to recover. Should the boxer be unable to continue at the end of the recovery period, the referee shall declare that the boxer has signaled his/her desire to stop boxing as described in WAC 36-12-130 (1)(b)(v).

(15) Prior to an event, each referee shall disclose to the department all considerations, including reimbursement for expenses that will be received from any source for participation in the event. The disclosure shall be made on a form supplied by the department.

(16) A decision rendered at the termination of any contest may be changed by the department if the department determines that one of the following occurred:

(a) There was collusion affecting the result of any contest;

(b) The compilation of the scorecard of the judges shows an error which would mean that the decision was given to the wrong contestant; or

(c) There was a violation of the laws or rules governing contests, which affected the result of any contest.

AMENDATORY SECTION (Amending WSR 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-130 ~~((Duties of referee—Injuries, knockdowns, falls.)) Outcome of contests.~~ ~~((1) In case of a knockdown the referee shall require the fallen contestant to take a count of eight. The referee may compel a hurt contestant to take an eight count at any time. In the case of a cut in the area around the eye or serious laceration the referee shall consult with the ringside physician. Such consultation may occur at any time. If it occurs during a round, the referee may interrupt the contest and direct the timekeeper to cease keep-~~

ing time toward completion of the round while the physician examines the contestant and renders a decision on termination of the contest. The termination of a contest by the examining physician is final and may not be overruled by any official or the department.

(2) A contestant who goes down without being struck other than one who is attempting to rise following a knock-out, and stays down, shall be disqualified and the referee may render the decision to his or her opponent. The referee shall recommend to the department that the purse of the offending boxer be forfeited and paid to the department.

(3) A contestant who:

(a) Leaves the ring during the one minute period between rounds and fails to be in the ring when the bell rings the signal to resume boxing;

(b) Fails to continue the contest at the beginning of a round shall immediately be placed on a count by the referee. Unless the contestant returns to the contest at the end of ten seconds the referee shall award the contest to the other contestant.

(4) Should a contestant who is knocked down arise before the count of ten is reached, and go down again immediately without being struck, the referee shall resume the count where the count was when it was interrupted by the rising of the contestant.

(5) If the referee determines during the rest period in a contest that a contestant is unable to continue, or if a contestant's chief second informs the referee during the rest period that the contestant is unable to continue, and the referee concurs therein, the referee shall terminate the contest and indicate on the referee's report that the opponent of the incapacitated contestant is the winner of the contest on a technical knockout as of the round which has last been finished.

(6) When a contestant resumes boxing after having been knocked down or fallen or slipped to the floor, the referee shall wipe all foreign material from the boxer's gloves. (1) If a referee stops a contest, he shall render a decision regarding the outcome of the contest as follows:

(a) Win by knockout if:

(i) Boxer has been knocked down by fair blows and cannot arise before completion of the referee's count; or

(ii) Boxer has been knocked down and the referee waves off the count because of urgency to have the event physician examine the boxer.

(b) Win by technical knockout if:

(i) Boxer suffers any combination of three knock-downs/standing counts in one round;

(ii) In the referee's judgment, boxer is outclassed or is unable to continue due to punishment received;

(iii) Boxer does not resume boxing by the end of a referee's count (excluding knockouts);

(iv) Cornerman signals referee to terminate the bout; or
 (v) Boxer, after putting forth good effort, signals referee his/her desire to stop boxing.

(c) Win by technical decision to the boxer who is ahead on at least two of the judges' scorecards if a contest is stopped after completion of three rounds of a contest scheduled for less than eight rounds or four rounds of a contest scheduled for eight rounds or more due to an accidental head butt or foul.

(d) Technical draw if:

(i) A bout is stopped before the completion of three rounds of a contest scheduled for less than eight rounds or stopped before the completion of four rounds of a contest scheduled for eight rounds or more due to an accidental foul; or

(ii) A bout is stopped after the completion of three rounds of a contest scheduled for less than eight rounds or a bout is stopped after the completion of four rounds of a contest scheduled for eight rounds or more due to an accidental head butt or foul and are split (one voting for boxer A, one voting for boxer B, and the third judge with an even score); or

(e) No contest if:

(i) The bout is unable to continue due to events other than boxing (fire, riot, ring collapse, etc.); or

(ii) In the referee's judgment, there appears to be collusion affecting the outcome of the contest.

(f) Disqualification:

(i) If points have been deducted from a boxer's scorecard for three separate incidents as described in WAC 36-12-110(12);

(ii) If a boxer, in the referee's judgment, flagrantly fouls an opponent;

(iii) If a boxer quits after putting forth no effort, thereby fostering a sham on the public;

(iv) Second enters the ring during the progress of the bout; or

(v) Following a contest, a boxer tests positive for controlled substances per WAC 36-12-240.

(2) If a contest ends when the scheduled rounds are completed, the outcome of the contest may be as follows:

(a) Winner by unanimous decision if all three judges agree on the same winner;

(b) Winner by split decision if two judges agree on winner and the third judge votes for the other boxer;

(c) Winner by majority decision if two judges agree on winner and the third judge has the score even between the boxers;

(d) A draw if all three judges have the score even between the boxers or are split (one voting for boxer A, one voting for boxer B, and the third judge with an even score); or

(e) A majority draw if two of the judges agree that the score is even between the boxers.

AMENDATORY SECTION (Amending WSR 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-140 Method of counting over a boxer who is down. ((1) When a contestant is knocked down the referee shall order the opponent to retire to the farthest neutral corner of the ring, pointing to the corner, while simultaneously beginning the count over the contestant who is down. The referee is the sole judge as to whether there has been a knockdown.

(2) The referee shall audibly announce the passing of each second, accompanying the count with a visible arm motion, the downward motion indicating the end of each second.

(3) Any contestant who is knocked down shall not be allowed to resume boxing until after the referee has finished

the count of eight. The contestant may, but is not required to, rise before the referee has reached the count of eight.

(4) The timekeeper shall:

(a) Stand up and strike the edge of the platform with a hammer or other equipment approved by the department, at the end of each second; or

(b) By other effective signaling method, give the referee the correct one second intervals for the purpose of maintaining the proper count of the passing seconds.

(5) Should the standing contestant leave the farthest neutral corner to which he or she has been directed by the referee, the referee shall interrupt the count. The count shall not be resumed until the contestant returns to the neutral corner to which he or she was directed by the referee. When the contestant returns to the appropriate corner, the referee shall resume the count from the point at which it was interrupted.

(6) When the referee determines a contestant has been knocked down primarily as a result of a blow, the referee shall require the contestant to be subjected to a count of eight before the contestant may resume the contest, regardless of whether the contestant rises from the ring floor prior to the count of eight being reached. This rule will prevent a boxer being struck while proper reflexes are absent and will also aid the referee in judging the condition of the boxer. If the contestant does not arise before the count of eight is reached, the referee must determine whether the contestant's reflexes and condition renders it appropriate to continue the contest.

(7) If the referee deems it appropriate, he or she may defer resumption of a contest to determine whether a contestant who was knocked down and arises before a count of eight is reached is in fit condition to continue. If so assured the referee shall, without loss of time, order both boxers to go on with the contest. During such intervention by the referee the striking of a blow by either boxer may be ruled a foul.

(8) If the contestant taking the count is still down when the referee calls the count of ten the referee shall wave both arms to indicate the contestant has been knocked out, and shall raise the hand of the opponent as winner. The referee's count is the official count. Upon the opinion and decision of both the physician and referee on any knockout, bad or continuous beating, a boxer will be suspended until such time as he takes a complete physical examination and is reinstated by such report from the department physician. This report will not include the blood test for communicable diseases, which is taken once a year.

(9) In all contests where a contestant has been knocked down a total of three times in a round, the contest shall be terminated and the opponent shall be awarded the decision.

(10) If a boxer is down and the referee is in the course of counting at the end of:

(a) A round other than the final scheduled round, the bell indicating the end of the round must not be sounded, but the bell must be sounded as soon as the downed boxer regains his feet and the referee indicates that the boxers should continue.

(b) The final round, the bell must be sounded indicating the end of the round and contest.) (1) The referee may give an injured boxer a count of eight seconds at any time. The referee does not have to continue to count if in the referee's opinion a boxer is unable to continue to box. The referee shall resume a count where it was left off if a boxer attempts

to rise after being knocked down and goes down again immediately.

(2) When the referee determines a boxer has been knocked down, the referee shall require the boxers to cease boxing during the count. If the boxer rises prior to, or when the count is completed, the referee shall determine whether the boxer's reflexes and condition render it appropriate to continue the contest.

(3) If a boxer does not rise when the count of eight is completed, the referee shall continue the count to ten seconds.

(4) If the boxer being given a count by the referee is down on the canvas of the ring when the referee completes counting to ten seconds, the referee shall wave both arms to indicate that the boxer has been knocked out and shall stop the contest. The referee may raise the hand of the opponent indicating that the opponent has won by a knockout.

(5) The referee's counting of seconds is the official count. However, when a boxer is knocked down, the timekeeper shall assist with starting and maintaining an accurate count by striking the edge of the ring platform once each second with a hammer or other equipment or signaling method.

(6) When a boxer is knocked down, the referee shall direct the opponent to move to the farthest neutral corner of the ring. If the opponent leaves the neutral corner, the referee shall interrupt the count and will not resume the count until the opponent returns to the neutral corner.

(7) If a boxer has been knocked down three times during a round, the referee shall stop the contest.

(8) If a boxer is knocked down and the referee is still counting when three minutes of a round has elapsed, the bell shall not be sounded until the knocked down boxer rises and the referee indicates that the contest will continue. A boxer cannot be saved by the bell at the end of any round.

(9) If both boxers score simultaneous knockdowns (double knockdown), the referee shall begin a count as in any knockdown. If one contestant does not rise before the count of ten, his opponent shall be declared the winner. If both contestants rise before completion of the count, the bout may continue at the discretion of the referee. If both contestants rise but neither can continue as determined by the referee and/or event physician, the winner will be determined by the scorecards. If neither contestant rises before the count of ten, they will both lose by knockout.

AMENDATORY SECTION (Amending WSR 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-150 When boxer falls from or leaves the ring during a round. (1) A ((contestant)) boxer who has been knocked ((or has fallen)) through the ropes and over the edge of the ring platform ((during a contest)) shall be subject to a count of twenty. The boxer may be helped back into the ring by anyone except his/her seconds or manager ((and the referee will allow a reasonable time for this return. When on the ring platform outside the ropes the contestant must reenter the ring immediately, then he may either resume the contest or stay down for a count, which in the latter case shall be started by the referee as soon as the fallen contestant is back in the ring)).

~~(2) (If a contestant intentionally declines to reenter the ring, the referee shall start the count immediately. If the contestant is not in the ring within ten seconds, the referee shall award the contest to the other contestant on the basis of a knockout.~~

~~(3) When a contestant has fallen through the ropes the other shall retire to the farthest neutral corner and stay there until the count is completed or the other contestant returns to the ring and the referee directs resumption of the contest.~~

~~(4) A contestant who deliberately wrestles or throws an opponent from the ring, or strikes an opponent who is partly out of the ring, and prevented by the ropes from assuming a position of defense may be disqualified, and the referee shall recommend to the department that the purse of the offending boxer be forfeited.)~~ A boxer who leaves the ring due to other than fair blows shall be subject to a count of ten only if he/she refuses to reenter the ring.

AMENDATORY SECTION (Amending WSR 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-170 Officials compensation fees to be paid by promoter. (1) ~~The~~ ((department shall decide the fee schedule and number of officials to be used at each contest and said minimum fees shall be paid by the promoter of the event.

~~(2) Officials minimum compensation rate))~~ following minimum fees shall be paid by the promoter of the event to event officials for nontitle, nontelevised bouts ((shall be as follows)):

Judge(s)	\$ 75.00
Timekeeper	\$ 75.00
Referee (preliminary)	\$110.00
Referee (main event)	\$125.00
Physician	\$250.00

~~((3) Officials minimum compensation rate))~~ (2) The following minimum fees shall be paid by the promoter of the event to event officials for nontitle, televised bouts ((shall be as follows)):

Judges	\$100.00
Timekeepers	\$100.00
Referee (preliminary)	\$135.00
Referee (main event)	\$200.00
Physician	\$250.00

~~((4))~~ (3) In the event of a championship ((or), title fight, or nationally televised ((or closed circuit televised bout, the)) fight, event officials shall be paid by the promoter at the respective and prevailing scale of the sponsoring organization. The event officials pay rate shall not be lower than the televised rate established in subsection ((3)) (2) of this section.

~~((5))~~ (4) Travel mileage shall be paid to event officials at the rate ((of \$.30 per mile beginning with the 41st mile)) listed on schedule A, chapter 10.90.10.b of the State Admin-

istrative and Accounting Manual as published by the office of financial management.

AMENDATORY SECTION (Amending WSR 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-190 Duties of department inspector. ~~((1) They shall attend to the forwarding of all reports to the department; prepare reports on suspensions, applications for reinstatement, and all other matters which require action by the department.~~

~~(2) Inspectors shall report directly to the department.~~

~~(3) Inspectors shall be in charge of all details of the contest that do not come under the jurisdiction of the other officials.~~

~~(4) Inspectors shall see that all necessary equipment is provided, that the contestants are ready on time, that the seconds are properly instructed in their duties, that the physician's report and the statement of weights are delivered to the referee, and that all regulations pertaining to the proper conduct of the contest are enforced.~~

~~(5) Inspectors shall insist that promoters enforce the rule against gambling.~~

~~(6) Inspectors shall see that all seconds present a neat appearance and are attired according to the requirements of the rules.~~

~~(7) The referee's report shall be made on the form supplied for that purpose by the inspector. The referee shall sign the report in the presence of the inspector after the termination of the event.~~

~~(8) In accordance with the law, each inspector shall receive for each contest officially attended a fee not to exceed two percent of the net gate of such contest up to a maximum of one hundred fifty dollars for closed circuit televised contests and five hundred dollars for all other boxing contests. Fifty dollars shall be the minimum charge for such fee with respect to closed circuit televised contests and one hundred dollars for all other contests.)~~ (1) The inspector appointed by the department for each boxing event reports directly to the department, and may be a department representative. The inspector shall be responsible for at least the following:

(a) Completion of the event report;

(b) Details of the contest that are not under the jurisdiction of other event officials;

(c) Determining that necessary equipment is provided by the promoter to the boxers, event officials and department officials;

(d) Instructing the seconds in their duties;

(e) Delivering the event physician's prefight and post-fight physical reports to the department;

(f) Delivering the statement of weights to the department;

(g) Working with all officials and licensees to assure that all regulations pertaining to the proper conduct of the contest are enforced; and

(h) Inspection of the ring and facilities.

(2) The inspector shall be paid a fee by the promoter, which is two percent of the net gate proceeds of the contest. The fee shall not be less than fifty dollars nor more than one hundred fifty dollars for a closed circuit contest and not less

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than one hundred dollars nor more than five hundred dollars for all other contests.

(3) Event report forms shall be supplied to the inspector by the department for each event.

(4) The event report shall be completed by the inspector for each event and signed by the event officials.

(5) The inspector report shall contain at least the following information:

(a) Recommendations from event physicians regarding suspensions;

(b) Information regarding possible violations of the law or rules;

(c) Circumstances under which a contest is stopped;

(d) Reason for awarding a decision;

(e) Ending time of match;

(f) Reason for deducting points;

(g) Recommendations for holding the purse or portion of the purse of a boxer;

(h) Name of boxers;

(i) Number of rounds; and

(j) Weigh-in weight of boxers.

AMENDATORY SECTION (Amending WSR 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-200 ((~~Contestants~~)) **Boxers.** ((~~(1) Contestants may assume and use ring names, but the right to use any certain name is subject to the approval of the department and may be denied either at the time of presenting application for license or later, should reason for such denial be brought before the department.~~

(2) Contestants shall report to the inspector in the dressing room at least one hour before the scheduled time of the first match.

(3) Contestants shall box in proper costume, including such foul proof protection cups as shall be listed as approved by the department. Proper costume shall include abdominal guard, two pair of trunks of contrasting color, shoes and a custom-made individually fabricated mouthpiece.

Approved mouthpiece shall mean a custom-made individually fitted mouthpiece.

In addition, female contestants shall also include a breast protector and body shirt with their ring costume.

(4) The use of grease or other substances that might handicap an opponent is prohibited.

(5) Contestants must be clean and present a tidy appearance.

(6) No contestant may absent himself or herself from a show in which he or she has signed or has been signed by his or her duly licensed manager, to appear, without a valid written excuse or furnishing a certificate from a department physician in advance in case of a physical disability.

(7) When a contestant competes anywhere in a contest of more than four rounds he or she will not be allowed to compete again until six days have elapsed.

When a contestant competes anywhere in a contest of four rounds or less, he or she will not be allowed to compete again until two days have elapsed.

(8) No one shall be allowed in the contestant's dressing room except his or her manager, seconds and department or promoter representatives.

(9) Boxer's licensing requirements are:

(a) Completed application.

(b) Complete physical.

(c) Two small photos.

(d) Fee is listed under License fees WAC 36-12-195. (Forms are supplied by the department.) These requirements must be received by the department before a boxer appears in any event.) (1) Boxers shall be present in the dressing room at the time designated by the department or at least one hour before the scheduled time of the first contest.

(2) Male boxers shall box in boxing shorts, abdominal guard, foul proof protection cup, shoes and custom-made, individually fitted mouthpiece.

(3) Female boxers shall box in boxing shorts, abdominal guard, foul proof protection cup, body shirt, breast protector, shoes and a custom-made, individually fitted mouthpiece. All female boxers must provide a negative pregnancy test within seven days prior to each contest.

(4) Boxers shall not use substances on their body or gloves that might handicap an opponent.

(5) If a boxer cannot box in an event for which the boxer has a contract with a promoter due to a physical disability, the boxer shall be examined by a physician as defined in RCW 67.08.002(11) prior to the scheduled event. The boxer shall report the disability to the department prior to the scheduled contest.

(6) After a boxer boxes in an event, the boxer shall not box again until seven days have passed.

(7) The department may limit the persons allowed in the dressing room of a boxer.

(8) Licensees shall not verbally abuse or have physical contact with any event official.

(9) Boxers shall receive a health and safety disclosure form from the department at the time the department issues the federal identification card required by the federal Professional Boxing Safety Act of 1996 including amendments of 2000.

(10) Copies of the annual physical examination required in RCW 67.08.100(2) shall be provided to the department. The examination shall certify that a boxer is physically fit to safely compete in a boxing contest.

AMENDATORY SECTION (Amending WSR 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-240 To prevent injury to contestants— Physical qualifications and exams((~~Stimulants— Assumed name— Professional competing with amateur~~)). ((1) Any contestant applying for a license must first be examined by a physician, to establish both physical and mental fitness for competition, and annually thereafter the contestant must take this required examination. The fee for all examinations must be paid by the contestant. The department may order examinations or other medical testing of contestants at any time for the purpose of determining whether such contestant is fit and qualified to engage in future contests.

The printed form supplied to the physician must be filled out and returned to the department, by the physician, and must be in the possession of the department before the license application can be acted upon. The examination must be repeated and reports turned in once a year, as long as the contestant is licensed by the department.

(2) The use of any controlled substances, alcohol or stimulants, or injections in any part of the body, either before or during a match, by any contestant is adequate grounds for revoking the contestant's license, as well as revoking the license of the person administering the same.

(3) Before a license is issued to any contestant, the application for such license must be approved by the department.

(4) If a contestant uses an assumed ring name, both the real name and his or her ring name must be included in the application. The word "killer" or "bloody" or any similar term must not be used by any contestant and must be eliminated from all advertisements and announcements referring to boxing.

(5) Whenever a licensed contestant, because of injuries or illness, is unable to take part in a contest for which he or she is under contract, the contestant (or manager) must immediately report the fact to the nearest inspector, and submit to an examination by a physician designated by the inspector. The examination fee shall be paid by the contestant, or promoter, if the latter requests an examination.

(6) Any professional boxer engaging in amateur contests shall automatically have their license revoked.

(7) All professional boxers shall have attained their 18th birthday before being allowed to compete in any contest in this state. No contestant over thirty six years old shall be granted a license except by special waiver from the department.

(8) No license shall be issued to any applicant for a boxer's license who is found to be blind in one eye or whose vision in one eye shall be so poor as to cause any examining physician to recommend that no license be granted. This rule will be effective regardless of how keen the contestant's vision may be in the other eye. Nor shall a boxer's license be issued to any contestant who has suffered a cerebral hemorrhage or any other serious head injury.

(9)) A boxer applying for a license to box in this state shall meet the following standards:

(a) Be certified by a physician as described in RCW 67.08.002(11) to be physically fit to safely compete in professional boxing. The examination shall include, but not be limited to:

(i) Eyesight;

(ii) Blood pressure;

(iii) Communicable diseases;

(iv) Drug testing for controlled substances defined in RCW 69.50.101; and

(v) Other physical factors the department determines are necessary to show a boxer is physically fit to safety compete in professional boxing.

(b) In addition to the requirements of (a) of this subsection, if a boxer is over thirty-six years old, or has lost six consecutive fights, the physical certification in (a) of this subsection must include proof of:

(i) A complete physical exam within thirty days of the event which includes an electroencephalogram (EEG) and an electrocardiogram (EKG); and

(ii) Any other specialized medical testing that may be determined necessary by the department.

(2) The event physician shall examine boxers and referees within twenty-four hours prior to and immediately following an event to determine that they meet the standards in subsection (1)(a) of this section with the exception of the requirements of subsection (1)(a)(iv) of this section unless the department notifies the event physician that drug testing is required following an event.

(3) A boxer who tests positive on a drug test required in subsection (1) or (2) of this section shall not be allowed to box in any event.

(4) When a contestant has been knocked out, none of the handlers are to touch the contestant, except to remove the mouthpiece until the attending physician enters the ring and personally attends the fallen contestant, and issues such instructions as deemed necessary to the contestant's handlers.

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 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-250 Managers. ((1) Managers must not sign a contract for the appearance of any contestant with whom no written contract is on file with the department. Contracts between boxer and manager must be on a contract form furnished or approved by the department. A contract between a manager and a boxer on file with the department will be recognized until such time as a court of competent jurisdiction determines it to be of no further force and effect.

(2) Managers must not attempt to select or insist upon the selection of any designated referee in a bout in which a boxer under his or her management is to appear and shall not have the name of such referee written into the official contract.

(3) Managers who act as seconds for their own boxers, exclusively, are not required to take out a second's license.

(4) Contracts between manager and boxer are not transferable except with approval and consent of the department and may be voided by the department for cause.

(5) All contracts between manager and boxer must be in writing and signed in triplicate, the original filed with the department for approval. Contracts must state the division of the boxer's earnings, which in no case shall allow the manager more than 33 1/3 percent of the boxer's purse, exclusive of amounts owed by the boxer to the manager under subsection (15) of this section.

(6) No assignment of any part or parts of a boxer's or a manager's interest in a contract can be made without the written approval and consent of the department.

(7) No manager shall be allowed to contract for the services of a boxer under his or her management for a match to take place on a date after the expiration of the contract between the boxer and the manager.

(8) Any boxer not under contract to a manager can make his or her own matches, sign contracts and need not apply for a manager's license to handle his or her own affairs.

(9) In cases where boxers sign contracts with managers the boxer's share of any purse which he or she may earn will not be less than 66 2/3 percent, exclusive of amounts owed to the manager under subsection (15) of this section.

(10) If a manager shall fail to make application for a license he or she shall forfeit all rights to boxers on whom he or she has filed contracts in this state and the boxer shall be free to sign contracts with other licensed managers. Managers must file contracts on all boxers under their management.

(11) If a manager is doing business for a boxer not signed to a contract, such boxer must personally sign all contracts for appearances for licensed promoters and the signature must be properly witnessed.

(12) No boxer can have more than one manager without the express approval of the department.

(13) No contract shall be approved between a manager and a boxer for a period exceeding five years.

(14) All disputes between the parties of a boxer/manager contract, including the validity of the contract, shall be handled as a civil matter.

(15) Any manager who advances or loans any money to any boxer or incurs indebtedness on behalf of any boxer shall furnish a statement to the boxer. This statement shall be specific and shall set forth as to each transaction or item at least the following information: The amount of money involved, the date that the indebtedness occurred, the purpose of the indebtedness, and the name of the person to whom the debt is owed.

The manager shall obtain the boxer's signature and date of signature on each accounting, within fourteen days of the loan or obligation being incurred.)) (1) Boxers are not required to have a manager.

(2) Managers may serve as seconds for their contracted boxers without holding a second's license.

(3) When a boxer has a manager, there shall be a contract for services as an agent or representative. Contracts need not be filed with the department, but shall be provided upon request.

(4) A manager shall not be a promoter at an event where he/she has a direct or indirect financial interest in a boxer who is scheduled for ten rounds or more of boxing.

(5) All contracts between boxers and managers shall be in accordance with the "Professional Boxing Safety Act of 1996" and amended by the "Muhammad Ali Boxing Reform Act."

AMENDATORY SECTION (Amending WSR 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-260 Seconds. ((+)) Seconds and managers acting as seconds must be neatly attired when in the ring.

(2) A second holding only a second's license shall not attempt to act as a manager, or assist in any way in procuring matches, or take a share of the contestant's earnings. If found guilty of such actions he or she shall be suspended.

(3) Seconds shall not be more than three in number, including "house assistant second."

(4) A second shall not excessively coach a contestant during a round and shall remain seated and silent when so directed by the department inspector on duty.

(5) Before a contest, the referee shall be informed of the identity of the chief second.

(6) Fans may be used between rounds, but swinging of towels is prohibited.

(7) Seconds shall not enter a ring until the bell indicates the end of a round. They shall leave the ring at the sound of the timekeeper's whistle ten seconds before a round is to begin, promptly removing all items in the ring and ensuring that no items are left on the ring platform at the time the bell sounds to start the round.

(8) Violations of the above rules may result in an indefinite suspension of the offenders by the department and disqualification of their boxer.)) (1) During a contest a second may:

(a) Coach at ringside or in the ring during the break between rounds;

(b) Stop bleeding from cuts;

(c) Reduce swelling;

(d) Provide water or other cooling-down techniques.

(2) No more than four seconds can assist each boxer during a contest.

(3) Seconds shall remain seated during rounds and shall not excessively coach a boxer during rounds.

(4) Before a contest begins, a chief second for each boxer shall be identified for the inspector and the referee.

(5) Seconds shall not enter a ring until the bell indicates the end of a round. Seconds shall leave the ring at the sound of the timekeeper's whistle that is given ten seconds before a round begins. Seconds shall remove all items in the ring and on the ring platform prior to the bell sounding at the beginning of a round.

(6) The chief second shall signal the referee to stop the fight by mounting the ring platform during a round.

AMENDATORY SECTION (Amending WSR 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-270 Matchmakers. ((+)) Matchmakers must observe all of the rules and requirements with respect to weight agreement and weighing in, and the proper execution and filing of contracts.

(2) Matchmakers will be held responsible by the department if they make matches in which one of the principals is outclassed. Persistent lack of judgment in this matter will be regarded as cause for canceling the license of the matchmaker and the promoter which he represents, for the protection of both the contestants and the public.

(3) Managers are not allowed to have more than three boxers under their management appear in any one show. Matchmakers must rigidly enforce this rule.

(4) Any promoter or matchmaker found guilty of managing a boxer shall have his license suspended, and in the case of a promoter, his club license may be revoked.)) (1) A matchmaker shall request approval from the department for each boxing contest for boxing events.

(2) The department may approve the contest if the following information about each boxer is similar and the

department does not have undo concern for the safety and welfare of either boxer proposed for a contest:

- (a) Boxing record;
- (b) Boxing experience;
- (c) Boxing skill; and
- (d) Physical condition.

(3) The department shall notify the matchmaker and promoter when a boxing contest is approved by giving preliminary approval to the matchmaker and by approving the advance notice submitted by the promoter.

AMENDATORY SECTION (Amending WSR 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-280 Timekeeper. ~~((1) The timekeeper must be seated at ringside close to the bell and shall indicate the beginning and ending of each round by striking the bell with a hammer.~~

(2) The timekeeper shall have a whistle and an accurate stopwatch that has been properly examined before it is used.

(3) Ten seconds before the beginning of each round the timekeeper shall give a warning to the seconds of the contestants by blowing the whistle.

(4) In the event of a contest terminating before the scheduled limit of rounds, the timekeeper shall inform the announcer of the exact duration of the contest.

(5) The timekeeper's procedure in the case of a knockdown is detailed in WAC 36-12-140(4) and 36-12-150.) (1) The timekeeper supplies the bell and timing equipment.

(2) The bell shall be placed at the ring no higher than the level of the ring platform and be of a clear tone so that the contestants and officials may easily hear it.

(3) Equipment shall include, but is not limited to, an accurate stopwatch, whistle, hammer, and bell.

(4) The timekeeper shall be seated at ringside with the bell and shall indicate the beginning and ending of each round by striking the bell with a hammer.

(5) Ten seconds before the beginning of each round the timekeeper shall blow the whistle as a warning for everyone but the referee and boxers to leave the ring.

(6) Five seconds before the end of each round the timekeeper shall notify the referee that the round is ending by striking a hard surface with a hammer or other similar object.

(7) When a contest terminates before the scheduled rounds are completed, the timekeeper shall inform the inspector of the exact duration of the contest.

(8) The timekeeper shall assist the referee during the knockdown count of a boxer.

(9) The timekeeper shall stop time on the referee's command of "time-out" and shall restart on the referee's command of "time-in" or "box."

NEW SECTION

WAC 36-12-285 Procedure in the event that a referee is incapacitated. (1) Timekeeper shall ring the bell and stop time.

(2) Boxers shall be commanded to stop boxing and directed to opposite neutral corners.

(3) Physicians shall attend to the referee.

(4) If the referee cannot continue, an alternate referee shall be assigned.

(5) Boxing and time shall resume at the referee's command of "time-in" or "box."

AMENDATORY SECTION (Amending WSR 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-290 Announcer. (1) ~~((After contestants)) At the beginning of a contest, when the boxers and their chief seconds are in the ring, the announcer shall announce to the audience the names of the ((contestants)) boxers, their ((correct)) weight((s)), and other ((matters as may be directed by the department, inspector, or the promoter. Promoters shall provide the announcement of rounds. The announcer shall announce the decisions.~~

(2) All substitutions of contestants or changes in any boxing program shall be announced to the audience by the announcer before the first boxing contest)) pertinent information.

(2) At the conclusion of a contest, the announcer shall announce the outcome of the contest.

(3) Prior to the first contest, the announcer shall announce any substitutions of boxers or changes in an event schedule.

AMENDATORY SECTION (Amending WSR 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-300 Judges. ~~((1) The department inspector in charge at all boxing shows shall, before the start of each contest, give the judges a regulation scorecard. Judges shall score each round of the contest on this card and sign it at the conclusion of the contest.~~

(2) Judges shall score all contests and determine the winner through the use of the ten point must system. In this system the winner of each round receives ten points and the opponent a proportionately less number. If the round is even, each boxer receives ten points. No fraction of points may be given.

(3) The majority opinion on the judges scorecards shall be conclusive and if there is no majority then the decision shall be a draw.

(4) At the termination of each contest, the referee will pick up and deliver the scorecards to a department representative. When the department representative has verified the results of the contest, the ring announcer shall be informed of the decision and shall announce the decision.

(5) The department inspector will deliver or mail all scorecards with the rest of the reports to the department office.) (1) Judges shall be provided scorecards by the inspector. Judges shall score each round of the contest using the scorecard, sign it at the conclusion of the contest and turn it into the referee. The referee shall turn the scorecards into the inspector who verifies the addition on the scorecards and gives the outcome of the contest to the announcer who announces the outcome to the audience.

(2) Judges shall score all contests using the "ten-point-must system." If a judge determines that both of the boxers are even in a round, each boxer receives ten points for the

round. No fraction of points shall be given to a boxer for a round.

(3) If the outcome of an incomplete contest is determined by using the scorecards of the judges, all rounds including partially completed rounds will be scored.

(4) Judges shall only deduct points from a boxer's score when instructed by the referee.

(5) Prior to an event, each judge shall disclose to the department all considerations, including reimbursement for expenses, which will be received from any source for participation at an event. Disclosure shall be made on a form supplied by the department.

AMENDATORY SECTION (Amending WSR 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-310 ((Department)) Event physician.

~~((1) Within twenty four hours of entering the ring each contestant must be given a thorough physical examination by a physician who has been appointed by the department. Medical equipment to be utilized for the examination should consist of but not be limited to a blood pressure cuff, otoscope, ophthalmoscope, penlight, reflex hammer, stethoscope, thermometer, and tongue depressors.~~

~~(2) Should the boxer examined prove unfit for competition, through physical injury, faulty heart action, the presence of any infection or contagious disease, or any weakness or disability discovered by the examining physician, said boxer shall be rejected and barred from contest. This decision must be reported immediately to the promoter and the department inspector.~~

~~(3) The physician shall certify to the inspector in writing that the contestants passed are in good physical condition to engage in the contest, and shall provide the written report on the contestants to the department inspector.~~

~~(4) The physician shall be in attendance at the ringside during all the contests and shall be prepared to assist should any serious emergency arise. The department physician at ringside will have the authority to stop a fight when he or she considers a boxer badly injured or in no shape to continue. Whenever a fight is stopped between rounds by the physician or otherwise because of injuries, the opponent shall be credited with a TKO for the round just concluded. No contest shall be allowed to proceed unless the physician is at ringside.~~

~~(5) The department physician shall have a suitable place or room in which to make the examinations. Physicians, other than those licensed by the department shall not be allowed in the dressing room of any boxer before a contest.~~

~~(6) A boxer rejected by a department physician for disability will be placed on the suspended list until it is shown that such disability no longer exists.)~~ (1) The event physician shall examine the boxers and referees as required by RCW 67.08.090 and provide a report to the inspector in writing that discloses the results of the examinations and recommendations.

(2) Medical equipment to be utilized by an event physician for the prefight and postfight examinations of boxers and referees shall consist of, but not be limited to, a blood pres-

sure cuff, otoscope, ophthalmoscope, penlight, reflex hammer, stethoscope, thermometer, and tongue depressor.

(3) If the event physician determines that a boxer or referee should not participate in an event due to a condition found during the prefight examination, the event physician shall recommend to the department that the boxer or referee not participate in the event.

(4) An event physician shall be at ringside during all the contests in an event and shall be prepared to provide medical assistance to a boxer if requested by the referee.

(5) The promoter shall provide the event physician with a suitable place to perform the prefight and postfight physical examinations.

(6) The event physician shall perform a postfight physical on each boxer immediately following an event and may recommend temporary suspension of the boxer's license due to injury incurred during a contest.

(7) The event physician may inspect first-aid equipment used by seconds.

AMENDATORY SECTION (Amending WSR 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-320 Suspensions. ~~((1) Promoters and their matchmakers will not permit any person under suspension to take any part whatsoever, as a participant or in arranging or conducting matches or exhibitions, during the period of suspension:~~

~~(2) Every person whose license has been revoked or suspended by the department shall not participate in any detail of matchmaking or boxing promotion during such revocation or suspension.~~

~~(3) Any person holding a license from the department who has been suspended for using dishonest methods to affect the outcome of any contest, or for any conduct reflecting serious discredit upon the sport of boxing shall not be eligible for reinstatement.~~

~~(4) Any manager under temporary suspension shall be considered to have forfeited for the duration of suspension all rights in this state held under the terms of any contract with a licensed boxer. Any attempt by a suspended manager to exercise such contract right shall make the suspension permanent, and a boxer who continues any of the contract relations with a suspended manager shall be indefinitely suspended.~~

~~(5) Any person holding a license from the department may be suspended for violations of the law, rules, or conviction of a crime involving moral turpitude, dishonesty, or corruption.~~

~~(6) A boxer whose manager has been suspended may continue boxing independently during the term of such suspension, signing his or her own contract for matches. No payment of a boxer's earnings may be made by any licensed promoter to a manager under suspension, or to his or her agent, but the purse in full shall be paid to the boxer.~~

~~(7) Revocation of a manager's license shall automatically cancel all the manager's contract rights in this state under any contracts with boxers made under authority of this department.~~

~~(8) In case of such revocation the boxers are at liberty to operate independently and make their own matches, or to~~

enter into contracts with other managers licensed by the department and in good standing.

(9) Following the knockout or technical knockout of a boxer, that boxer shall have his or her license to box suspended for a minimum period of thirty days for a TKO and sixty days for a KO. Boxers will not be permitted to engage in any contact boxing during this period without approval of the department.

This suspension is to take effect immediately following the knockout or technical knockout. If the department feels that this suspension is not sufficient they may impose a longer period or the suspension may be for an indefinite period pending the outcome of a physical examination.

Any contestant who has lost six consecutive fights shall submit to a complete medical examination and any subsequent testing deemed necessary by a physician prior to their next bout.

(10)) (1) A boxer whose manager has been suspended under chapter 67.08 RCW may continue boxing during the term of such suspension, signing his/her own boxer/promoter contract.

(2) Boxers scheduled for a contest shall sign a letter of agreement with the department accepting temporary suspension of their license if they receive an injury during the contest. The schedule for suspensions is:

- (a) Thirty days for a technical knockout;
- (b) Sixty days for a knockout;

(c) A period of time different than (a) and (b) of this subsection if serious injury or condition is detected by the event physician during the postfight physical; and

(d) A period of time or an indefinite period of time if serious injury or condition is detected by the event physician. If the suspension is for an indefinite period of time, the boxer may not box again without an examination completed by a physician who has provided written certification to the department that the medical condition no longer exists.

(3) If at any time a boxer's ability to perform is questionable, whether for reasons of health, mental condition, or no longer possessing the ability to compete or for any other reason, the department may(, upon being satisfied of the boxer's lack of ability to perform, retire)) recommend that the boxer be retired from further competition.

Boxers who have been recommended for retirement have a right to a hearing under chapter 34.05 RCW, the Administrative Procedure Act.

AMENDATORY SECTION (Amending WSR 97-01-035, filed 12/10/96, effective 1/10/97)

WAC 36-12-360 Promoters. ((All promoters must be licensed to promote boxing in the state of Washington. A license certificate is issued when a promoter's application has been approved by the department and a bond has been obtained and approved. Medical insurance must be obtained before any scheduled event takes place. (See RCW 67.08.030 and 67.08.040.)

(1) All boxing contests must be approved by the department. No promoter may release the names of contestants to the media or otherwise publicize a contest unless a contract

has been executed between the parties and the contest approved by the department.

(2) The grounds for denial or cancellation by the department for a boxing contest are as follows:

(a) The failure of the promoter or any person connected with the promotion and under the jurisdiction of the department to comply with any statute or rule regulating boxing in Washington.

(b) The contest would tend to be a mismatch based on the record, experience, skill, and condition of the contestants.

(c) The contestants have not completed licensing requirements within the seventy-two hour time frame set by the department.

(d) The department does not have adequate staff to enforce the statutes and rules regulating boxing enacted and adopted to protect the health, safety, and welfare of the participants and consumers and guarantee the collection of revenue due to the state from the contest and all ancillary rights incidental thereto.

(3) Promoters will be held responsible for maintaining order, and any person who is intoxicated, abusive or disorderly in conduct, to the annoyance of surrounding spectators, must be ejected.)) (1) Promoters shall not release the names of boxing contestants in an event to the media or otherwise publicize a contest unless a boxer/promoter contract has been signed and the contest approved by the department.

(2) Promoters shall not schedule an event intermission that exceeds twenty minutes.

(3) Promoters shall dispense drinks only in plastic or paper cups.

(4) Promoters shall not schedule less than twenty-six rounds of boxing((, nor more than forty rounds, for any one program except with the)) without approval of the department. ((An emergency bout shall be provided in the event an arranged card breaks down and if it is necessary to put on another bout.))

(5) Advance notices for all boxing shows must be in the office of the department seven days prior to the holding of any boxing show. In addition to the regular scheduled boxers the advance notice must show the names of boxers engaged by the promoter for an emergency bout.

(6) ((Notice of any change in announced or advertised programs for any contest must be filed immediately with the department and the press. Notice of such change or substitution must also be conspicuously posted at the box office, and announced from the ring before the opening contest, and if any of the patrons desire to have the price of their tickets refunded, such refund shall be made if the tickets or ticket stubs are presented at the box office at once. The box office must remain open a reasonable time to redeem such tickets.

(7) Substitutions will not be permitted in any contest unless the substitute has been approved by the department.

(8) No intermission shall exceed a period of twenty minutes at any boxing show.

The time allowed for putting gloves on main event boxers within the ring, shall not exceed five minutes.

(9) No promoter, or club, or member, stockholder, or official of a club shall be permitted to act directly or indirectly as a manager of a boxer, or to hold any financial interest in such management or in the boxer's ring earnings.

(10) Every promoter must provide a suitable room or place and a scale for the examination of contestants by the department physician. The promoter must furnish ice bags, a stretcher, and a blanket at each boxing show, to be in readiness in the event same will be deemed necessary by the department physician. The promoter shall also ensure that the department physician is provided with emergency medical equipment at ringside. The equipment shall consist of but not be limited to airways, nonsurgical rubber gloves, sterile 4 x 4 gauze pads, and tongue depressors.

(11) Copies of all boxing contracts must be filed with the department. The making of secret agreements contrary to the terms of the contracts so filed is prohibited under penalty of suspension of all parties thereto.

(12) Any promoter doing business directly or indirectly with managers or boxers under suspension may have its license revoked.

(13) All drinks shall be dispensed only in plastic or paper cups. Violations of this rule may result in the suspension or revocation of the offending promoter's license.

(14) Promoters must provide adequate security as approved by the department.

(15) A promoter shall not employ any unlicensed second, boxer, matchmaker, or announcer.

(16) No admission can be charged where boxers are training except with the approval of the department. When an admission fee is charged it shall be considered by the department as a charge for the privilege of seeing an exhibition of boxing, and the promoter or person making the charge for admission shall furnish the department with a certified written report, detailing the number of admissions and the total amount of money taken in, within seventy-two hours thereafter. The state tax of five percent on such gross receipts, exclusive of any federal taxes paid thereon shall be forwarded to the department with the report.

(17) The department requires that whenever any person, licensed by the department is approached with a request or suggestion that a sham or collusive contest be entered into or that the contest shall not be conducted honestly and fairly, such licensed person must immediately report the matter to the department.

(18) Any department inspector supervising a contest or exhibition has the full power of the department in enforcing the rules and regulations of the department.)) Changes in announced or advertised programs for any contest must be approved prior to the contest by the department. Notice of such change or substitution must also be given to the press, conspicuously posted at the box office, and announced from the ring before the opening contest. If any ticket holders desire a refund, such refund shall be made at the box office prior to the start of the first contest.

(7) The promoter of an event shall contract with each boxer for a contest. Original contracts shall be filed with the department at least five days prior to the event. The contract shall be on a form supplied by the department and contain at least the following:

- (a) The weight of the boxer at weigh-in;
- (b) The amount of the purse to be paid for the contest;
- (c) The date and location of the contest;

(d) Any other payment or consideration provided to the boxer;

(e) List of all fees, charges and expenses including training expenses that will be assessed to the boxer or deducted from the boxer's purse;

(f) Any reduction in a boxer's purse contrary to a previous agreement between the promoter and the boxer; and

(g) The amount of any compensation or consideration that a promoter has contracted to receive from a match.

(8) If a boxer/promoter contract is renegotiated, the promoter shall provide the department with the contract at least two hours prior to an event's scheduled start time.

(9) If the information from the contract in subsection (7)(e), (f) and (g) of this section is discloseable under Washington state public disclosure law, the promoter may instead provide the information to the Association of Boxing Commissions instead of including the information in the boxer/promoter contract.

(10) A promoter for an event shall not be a manager for a boxer who is contracted for ten rounds or more of boxing at that event or have direct or indirect financial interest in a boxer in the event.

(11) The promoter of an event shall provide payments for the boxers' purses and event official's fee in the form of checks or money orders to the department prior to an event. The department may allow other forms of payment if arranged in advance. The department shall pay the boxers and officials immediately after the event, but not later than seventy-two hours from the conclusion of the event.

(12) Promoters shall provide seats for event officials and department representatives at ringside for each event.

AMENDATORY SECTION (Amending WSR 99-17-048, filed 8/13/99, effective 9/13/99)

WAC 36-12-364 Rule exceptions boxing bouts. (1) If boxing events involving world championships are held, in addition to chapter 36-12 WAC, the department may use the *Unified Championship Rules* as adopted by the World Boxing Association, World Boxing Council, World Boxing Organization, and International Boxing Federation, or rules established by any other professional boxing organization that afford a similar level of safety to participants. A copy of any world championship boxing rules used by the department may be obtained through correspondence to the Washington state department of licensing.

(2) In the interest of ensuring the safety and welfare of the participants, in addition to chapter 36-12 WAC, the department may use the *Regulatory Guidelines* as adopted by the Association of Boxing Commissions during the conduct of a boxing event.

AMENDATORY SECTION (Amending WSR 00-02-054, filed 12/31/99, effective 1/31/00)

WAC 36-12-465 Application of brief adjudicative proceedings. The director adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted by request, and/or at the discretion of the director pursuant to RCW 34.05.482, for the categories of

matters set forth below. Brief adjudicative proceedings will be limited to a determination of one or more of the following issues:

- (1) Whether the department is proposing to deny an application to any applicant as defined in the Professional Athletics Act, chapter 67.08 RCW;
- (2) Whether a person is in compliance with the terms and conditions of a final order or agreement previously issued by the department; and
- (3) Whether a license holder requesting renewal has not submitted all required information to meet minimum criteria for renewal; ~~((and))~~
- (4) Whether a license holder has been certified by a lending agency and reported to the department for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 36-12-010	Penalties.
WAC 36-12-060	Number of rounds.
WAC 36-12-080	Ring equipment.
WAC 36-12-120	Powers of referee—Penalties for fouls, butts.
WAC 36-12-160	Report of referee—Withholding or forfeiture of purse.
WAC 36-12-210	Down—A contestant shall be deemed "down" when.
WAC 36-12-220	Fouls in boxing.
WAC 36-12-330	Contracts.
WAC 36-12-340	Payment of contestants.
WAC 36-12-350	Tickets.
WAC 36-12-363	Miscellaneous provisions.

**WSR 02-03-080
PERMANENT RULES
DEPARTMENT OF LICENSING**

[Filed January 15, 2002, 1:06 p.m.]

Date of Adoption: January 8, 2002.

Purpose: To mandate three clock hours of prescribed core curriculum for real estate licensees license renewal.

Citation of Existing Rules Affected by this Order: Amending WAC 308-124A-600; and [new section] WAC 308-124A-605.

Statutory Authority for Adoption: RCW 18.85.040(1), 43.24.086.

Adopted under notice filed as WSR 01-23-004 on November 7, 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 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 1, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 15, 2002

Alan E. Rathbun

Assistant Director

AMENDATORY SECTION (Amending WSR 97-01-027, filed 12/10/96, effective 1/10/97)

WAC 308-124A-600 Continuing education clock hour requirements. A licensee shall submit to the department evidence of satisfactory completion of clock hours, pursuant to RCW 18.85.165, in the manner and on forms prescribed by the department.

(1) A licensee applying for renewal of an active license shall submit evidence of completion of at least thirty clock hours of instruction in a course(s) approved by the director and commenced within thirty-six months of a licensee's renewal date. A minimum of fifteen clock hours must be completed within twenty-four months of the licensee's current renewal date(;;), and a portion of that fifteen must include three hours of the prescribed core curriculum defined at WAC 308-124A-605. Up to fifteen clock hours of instruction beyond the thirty clock hours submitted for a previous renewal date may be carried forward to the following renewal date. Licensees shall begin reporting prescribed core curriculum for renewal dates on or after June 1, 2004. Failure to report successful completion of the prescribed core curriculum clock hours shall result in denial of license renewal.

(2) The thirty clock hours shall be satisfied by evidence of completion of approved real estate courses as defined in WAC 308-124H-025. A portion of the thirty clock hours of continuing education must include three clock hours of prescribed core curriculum defined at WAC 308-124A-605.

(3) Courses for continuing education clock hour credit shall be commenced after issuance of a first license.

(4) A licensee shall not place a license on inactive status to avoid the continuing education requirement. A licensee shall submit evidence of completion of continuing education clock hours to activate a license if activation occurs within one year after the license had been placed on inactive status and the last renewal of the license had been as an inactive license.

PERMANENT

- (5) Approved courses may be repeated for continuing education credit in subsequent renewal periods.
- (6) Clock hour credit for continuing education shall not be accepted if:
 - (a) The course is not approved pursuant to chapter 308-124H WAC and chapter 18.85 RCW;
 - (b) Course(s) was taken to activate an inactive license pursuant to RCW 18.85.215(3);
 - (c) Course(s) was used to satisfy the requirements of RCW 18.85.095 (1)(b), real estate salesperson's license, RCW 18.85.095 (2)(a), real estate salesperson's practices course, and RCW 18.85.090, broker's license and WAC 308-124A-570, reinstatement.
- (7) Instructors shall not receive clock hour credit for teaching or course development.

may recommend readoption of the same core curriculum if appropriate. Core curriculum may be developed in a separate three clock-hour course or may be three clock hours contained within an approved thirty or less clock-hour course. Core curriculum must be completed within twenty-four months of the licensee's renewal date. Core curriculum commenced within thirty-six months but more than twenty-four months prior to the licensee's renewal date, may not count towards the core curriculum requirement, but may apply as regular continuing education credit for renewal.

WSR 02-03-120
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

(Filed January 23, 2002, 8:03 a.m., effective March 1, 2002)

Date of Adoption: January 18, 2002.

Purpose: These rule changes are necessary to implement the Public Employees' Retirement System Plan 3. DRS is also converting as much language as possible to "Plain English." Some changes to the Teachers' Retirement System (TRS) and School Employees' Retirement System (SERS), and other DRS WACs are also being changed, as necessary, to fully implement Plan 3.

NEW SECTION

WAC 308-124A-605 Defining prescribed core curriculum. A licensee shall submit to the department evidence of satisfactory completion of three clock hours of core curriculum continuing education approved by the director. Core curriculum continuing education is a specific course of study, recommended by the real estate commission for approval by the director that provides practical information on contemporary issues relating to the practice of real estate. The commission may recommend multiple core curricula to address residential, commercial and property management disciplines or

Citation of Existing Rules Affected by this Order:

WAC #	WAC Title	Statutory Authority (RCWs)	Amended or New?
415-02-130	Will I receive retirement and account information?	41.50.065	Amended
415-10-010	Can I purchase service credit after the statutory deadline?, and 415-10-030 Calculation of cost to purchase service credit.	41.50.165	Amended
415-10-020	Definitions and 415-108-340 Actuarial tables, schedules, and factors.	Chapter 41.45 RCW	Amended
415-10-080	If I purchase service credit under RCW 41.50.165, can I receive a refund of my payments?	41.26.540, 41.32.498, 41.40.730, 41.40.830, 41.50.160, 41.50.165, 41.50.175	Amended
415-10-100	Can a Plan 3 member purchase service credit?	41.50.165, 41.50.175	Amended
415-108-315	Can I specify who can receive my benefits if I die in service?	41.40.270, 41.40.700, 41.40.835	Amended
415-108-324	I am married - do I need my spouse's consent on the retirement option I choose?	41.40.188(2), 41.40.660(2), 41.40.845(2)	Amended
415-108-425	How do I determine if I have choice rights or transfer rights to PERS Plan 3?	41.40.785	New
415-108-441	Purpose and scope of compensation earnable rules, and 415-108-443 PERS Reportable compensation table.	41.40.010(8), chapter 41.40 RCW	Amended
415-108-445	What compensation can be reported?, 415-108-480 Vehicles—Does the value of my use of an employer vehicle qualify as compensation earnable?, and 415-108-679 Purpose and scope of eligibility rules	41.40.010	Amended
415-108-456	Leave payments earned over time, 415-108-458 Severance pay earned over time, and 415-108-464 Legislative leave.	41.40.010(8)	Amended
415-108-465	Is paid leave not earned over time reportable compensation for PERS?	41.40.710	Amended
415-108-466	Do I receive reportable compensation for union leave?	41.40.010, 41.40.175, 41.40.710, 41.40.805	Amended
415-108-491	Salary imputed to periods of unpaid leave.	41.40.038, 41.40.170, 41.40.710, 41.40.805	Amended
415-108-570	As an elected or appointed official, what are my requirements for service credit?	41.40.023	Amended
415-108-640	Effect of meeting union verification requirements.	41.40.010 (4)(a), 41.40.057, 41.40.363	Amended
415-108-690	How is my membership eligibility evaluated?	41.40.010, 41.40.023	Amended

PERMANENT

WAC #	WAC Title	Statutory Authority (RCWs)	Amended or New?
415-108-720	Participation—Can I be excluded from participating in membership even if I am employed in an eligible position?	41.40.023, 41.40.150, 41.40.690	Amended
415-108-727	Can I transfer service credit earned as a cadet in the public employees' retirement system to the Washington state patrol retirement system?	41.40.092	New
415-108-815	What is the minimum dollar limit used to determine a Plan 3 lump sum benefit payment?	41.40.815	New
415-108-830	Actuarial recomputation of a Plan 2 or 3 retirement allowance upon retirement following reemployment.	41.40.620, 41.40.690	Amended
415-108-980	Will I receive a transfer payment when I transfer to Plan 3?	41.32.8401, 41.35.630, 41.40.795	New
415-110-815	What is the minimum dollar limit used to determine a Plan 3 lump sum benefit payment?	41.35.670	New
415-110-910	Conversion of service from PERS to SERS.	41.35.005 through 41.35.030, 41.40.070	Amended
415-111-100	To whom does this chapter apply?	Chapter 41.34 RCW	Amended
415-111-110	Member and employer responsibility.	41.50.112, 41.50.145, chapter 41.34 RCW	Amended
415-111-310	Defined contribution account distribution (withdrawal).	41.34.070	Amended
415-111-400	Optional service credit purchase rules.	41.32.810, 41.32.865, 41.35.470, 41.35.650, 41.40.710, 41.40.805	New
415-111-410	Submitting a beneficiary designation for Plan 3 members.	41.40.835, 41.40.845	New
415-111-440	What is gainsharing?	Chapter 41.31A RCW	New
415-111-450	How does a court-ordered division of property affect my Plan 3 account?	41.50.670 through 41.50.720	New
415-112-250	Can I receive service credit for leave with pay?	41.32.267, 41.32.810, 41.32.850	Amended
415-112-400	When does the employer deduct salary for retirement contributions?	41.32.270	Amended
415-112-412	Are nonmoney payments from my employer considered compensation earnable?	41.32.010 (10)(b)	Amended
415-112-413	Vehicles—Does the value of my use of an employer vehicle qualify as earnable compensation?	41.32.010(10), IRC Section 61	Amended
415-112-725	Married member's benefit selection—Spousal consent required.	41.32.530(2), 41.32.785(2), 41.32.851(2)	Amended
415-113-0303	Dual member system—Definitions and system acronyms.	41.54.010	Amended
415-113-041	Am I a dual member?	41.54.010, 41.54.061	Amended
415-113-042	What can terminate my status as a dual member?	41.54.010, 41.54.030	Amended
415-113-065	Can I substitute salary from one system to another?, and 415-113-070 If I retire as a dual member, must I receive benefits from both systems immediately?	41.54.030	Amended
415-113-090	What is the maximum retirement benefit that I may receive under chapter 41.54 RCW?	41.54.070	Amended
415-113-200	SERS and PERS concurrent employment.	Chapters 41.32, 41.34, 41.35, 41.40, and 41.50 RCW	Amended
415-200-030	Plan 3 external administrators.	41.50.088	Amended

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Repealed: WAC 415-10-110 and 415-113-0310.

Statutory Authority for Adoption: RCW 41.50.050(5).

Other Authority: See Citation of Existing Rules above.

Adopted under notice filed as WSR 01-18-072 on September 4, 2001; WSR 01-20-037 on September 26, 2001; WSR 01-21-070 on September [October] 18, 2001, and WSR 01-23-051 on November 20, 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 8, Amended 41, Repealed 2.

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 8, Amended 41, 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 0.

Effective Date of Rule: March 1, 2002.

January 18, 2002

John Charles

Director

AMENDATORY SECTION (Amending WSR 00-10-016, filed 4/21/00, effective 5/22/00)

WAC 415-02-130 ((Members)) Will I receive retirement and account information ((annually))? (1) DRS pro-

vides ~~((information in an annual))~~ statements to all members who are currently employed and are being reported, and to inactive members who provide a mailing address.

(2) If you are a member of Plan 1 or 2, you will receive annual statements. The statements include, but are not limited to, the following information:

- (a) Service credit;
- (b) Contributions; ~~((and))~~
- (c) Interest; and
- (d) Various retirement information.

~~((2) The annual statement is based on information provided to the department by the employer as of a certain date. At the time the department compiles the annual statement, it may not have all the information necessary to make a final computation of any data reported. Information in the annual statement is subject to correction.))~~ (3) For a member of Plan 3, you will receive two types of statements.

(a) The defined benefit portion of your plan will provide an annual statement of your accumulated service credit and various retirement information.

(b) The defined contribution portion of your plan will provide annual and quarterly statements. The statements include, but are not limited to, contributions and account activity.

(4) Statements are based on information provided to the department by your employer and are subject to correction.

AMENDATORY SECTION (Amending WSR 00-22-049, filed 10/27/00, effective 11/27/00)

WAC 415-10-020 Definitions. As used in this chapter:

(1) ~~((2))~~ (1) Average earnings ~~((2))~~ means:

(a) In PERS Plan 1, TRS Plan 1 or WSPRS Plan 1: The average of your two highest consecutive years of compensation as of the date of your service credit purchase ~~((if you are purchasing service credit in PERS Plan 1, TRS Plan 1 or WSPRS;)).~~

(b) In Plan 2 or Plan 3: The average of your five highest consecutive years of compensation as of the date of your service credit purchase ~~((if you are purchasing service credit in Plan 2 or Plan 3)).~~

(c) In LEOFF Plan 1: The basic salary attached to your position at the date of your service credit purchase ~~((if you are purchasing service credit in LEOFF Plan 1)).~~

(2) Factors:

(a) "Factor 1" means the actuarial cost factor calculated by the state actuary and adopted by the department. The actual factor used varies depending upon the time between the date of payment and the projected date of retirement. Generally, the longer the gap between date of payment and date of retirement the lower the factor.

~~((3))~~ (b) "Factor 2" is the actuarial factor calculated by the state actuary based upon demographic differences between the membership of the different retirement systems. Those factors are: .00788 (PERS Plan 1); .00698 (TRS Plan 1); and .00908 (WSPRS Plan 1).

~~((4))~~ (c) "Factor 3" means the interest factor calculated by the state actuary and adopted by the department. This factor is used only when the service credit purchase lowers the

projected retirement age and is based upon the higher cost to the system of the earlier retirement.

~~((5))~~ (3) LEOFF ~~((2))~~ means the law enforcement officers' and fire fighters' retirement system established under chapter 41.26 RCW.

~~((6))~~ (4) PERS ~~((2))~~ means the public employees' retirement system established under chapter 41.40 RCW.

~~((7) "Plan 1" means the retirement system plan that includes persons who established membership before October 1, 1977. PERS and LEOFF are divided into Plan 1 and Plan 2. TRS is divided into Plan 1, Plan 2 and Plan 3. WSPRS has only one plan.~~

~~((8) "Plan 2" means the retirement system plan that includes persons who established membership on or after October 1, 1977. PERS and LEOFF are divided into Plan 1 and Plan 2. TRS is divided into Plan 1, Plan 2 and Plan 3. SERS is divided into Plan 2 and Plan 3. WSPRS has only one plan.~~

~~((9) "Plan 3" means the teachers' retirement system Plan 3 established by RCW 41.32.831 and the school employees' retirement system Plan 3 established by RCW 41.35.600.~~

~~((10))~~ (5) SERS means the school employees' retirement system established under chapter 41.35 RCW.

(6) Service credit being purchased ~~((2))~~ means the number of service credit months or service credit years you are purchasing.

~~((11))~~ (7) TRS ~~((2))~~ means the teachers' retirement system established under chapter ~~((s))~~ 41.32 ~~((and 41.34))~~ RCW.

~~((12))~~ (8) WSPRS ~~((2))~~ means the Washington state patrol retirement system established under chapter 43.43 RCW.

~~((13))~~ (9) Years of earlier retirement ~~((2))~~ equals the number of years or fractions of years you will be able to retire earlier as a result of your purchase of service credit.

~~((14))~~ (10) Years of service ~~((2))~~ equals the total anticipated years of service you will have accrued at retirement, including the additional service credit you purchase under this section.

~~((15) "SERS" means the school employees' retirement system established under chapters 41.34 and 41.35 RCW.))~~

AMENDATORY SECTION (Amending WSR 00-22-049, filed 10/27/00, effective 11/27/00)

WAC 415-10-010 Can I purchase service credit after the statutory deadline? RCW 41.50.165 generally allows ~~((the member))~~ you to purchase service credit that ~~((he or she))~~ you failed to establish or reestablish within the statutory deadline.

(1) You must pay the actuarial value of the increase to your retirement ((allowance)) benefit. The actuarial value of the increase to ~~((the member's))~~ your benefit means the cost to the retirement system trust fund of:

- (a) Including the additional service credit in ~~((the member's))~~ your retirement ~~((allowance))~~ benefit calculation; and
- (b) ~~((Commencing the member's))~~ Beginning your retirement ~~((allowance))~~ benefit at an earlier age, if applicable. This second factor ~~((will not apply if the member's retire-~~

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ment system is LEOFF 1, LEOFF 2, PERS 2, or TRS 2, because length of service is not a factor in determining eligibility to retire in those systems)) applies only to PERS Plan 1, TRS Plan 1, and WSPRS Plans 1 and 2.

(2) **The valuation is based upon economic assumptions.** The cost to the retirement system trust fund for the increased value to ((the member's)) your benefit is calculated based upon interest rate assumptions adopted by the pension funding council and actuarial factors adopted or approved by the state actuary.

AMENDATORY SECTION (Amending WSR 00-22-049, filed 10/27/00, effective 11/27/00)

WAC 415-10-030 Calculation of cost to purchase service credit ((in LEOFF Plan 1, LEOFF Plan 2, PERS Plan 2, TRS Plan 2, or SERS Plan 2)) in certain plans. If you are a member of LEOFF Plan 1 or 2, ((LEOFF Plan 2,)) PERS Plan 2 or 3, TRS Plan 2 or 3, ((TRS Plan 3,)) or SERS Plan 2 or ((SERS Plan)) 3, the department will calculate the actuarial value of the service credit you purchase under RCW 41.50.165(2) using the following formula:

$$\text{Average Earnings } (-) \times \text{Service Credit Being Purchased } (+) \times \text{Factor 1} \\ = \text{Cost to purchase service credit}$$

AMENDATORY SECTION (Amending WSR 00-22-049, filed 10/27/00, effective 11/27/00)

WAC 415-10-080 If I purchase service credit under RCW 41.50.165, can I receive a refund of my payments?

(1) **You may ((not)) receive a refund ((unless)) only after you separate from service and ((withdraw)) apply for withdrawal of your contributions.** ((Except as provided under subsections (2) and (3) of this section,)) Your payments to purchase service credit under RCW 41.50.165(2) qualify as a part of your accumulated contributions. ((As with other accumulated contributions, you may not receive a refund of your payments unless you separate from service and withdraw all your contributions.)) There are additional restrictions for TRS Plan 1, LEOFF Plan 2 and members of the Plan 3 systems as listed in subsections (2), (3), and (4) of this section.

(2) **((Additional)) Restrictions for TRS Plan 1 members.** ((If you are a TRS 1 member)) At the time of retirement, RCW 41.32.498(2) prohibits you from withdrawing payments made to purchase service credit under RCW 41.50.165(2) ((at the time of retirement)).

(3) **((Additional)) Restrictions for LEOFF Plan 2 members.** ((If you are a LEOFF Plan 2 member,)) Payments made to purchase service credit under RCW 41.50.165(2) and interest on those payments ((may)) will be refunded at one hundred percent. ((However, such)) Those payments ((may)) will not be included when calculating the one hundred fifty percent refund of contributions under RCW 41.26.540 (1)(b).

(4) **Restrictions for Plan 3 members of TRS, SERS and PERS.** When you apply for service credit under RCW 41.50.165(2), one-half of the amount due will go into your

defined benefit plan and one-half will go into your defined contribution plan. As a member of any Plan 3 system, you may apply for a refund of your contributions from the defined contribution portion of your account upon separation from employment. Your refund will be based on the market value of your contributions, including earnings and losses, at the time you withdraw. The defined benefit portion will be paid when you are eligible to receive benefits.

Example 1 (Market has gains):

Joe restores 5 years of service credit at a total cost of \$10,000.00. One-half, or \$5,000.00, goes into Joe's defined contribution plan member account, and the other \$5,000.00 goes into the pension trust fund for his defined benefit plan. Joe separates two years later and applies for the withdrawal of his defined contribution account. While Joe was in service the market experienced gains. The value of Joe's defined contribution account is now \$6,000.00. Joe receives \$6,000.00 (minus applicable taxes and penalties). The defined benefit portion is not refundable but Joe will receive a one percent defined benefit allowance when he is eligible.

Example 2 (Market has losses):

Joe restores 5 years of service credit at a total cost of \$10,000.00. One-half, or \$5,000.00, goes into Joe's defined contribution plan member account, and the other \$5,000.00 goes into the pension trust fund for his defined benefit plan. Joe separates two years later and applies for the withdrawal of his defined contribution account. While Joe was in service the market suffered a loss. The value of Joe's defined contribution account is now \$4,000.00. Joe receives \$4,000.00 (minus applicable taxes and penalties). The defined benefit portion is not refundable but Joe will receive a one percent defined benefit allowance when he is eligible.

AMENDATORY SECTION (Amending WSR 00-22-049, filed 10/27/00, effective 11/27/00)

WAC 415-10-100 ((Can I purchase TRS Plan 2 credit in TRS Plan 3?)) Can a Plan 3 member purchase service credit? ((Yes,)) (1) Transferring purchased ((TRS)) Plan 2 credit under RCW 41.50.165(2) into ((TRS)) Plan 3. If you purchase ((TRS)) Plan 2 service credit under this chapter and later ((elect to)) enter ((TRS)) Plan 3, that credit will also transfer to ((TRS)) Plan 3.

(a) Fifty percent of the money you paid to purchase the service credit will be credited to the ((TRS)) Plan 3 defined contribution account ((established under chapter 41.34 RCW)).

(b) The other fifty percent will be credited to the ((TRS)) Plan 3 defined benefit ((portion)) plan established under RCW 41.32.831 for TRS Plan 3, RCW 41.35.600 for SERS Plan 3, and RCW 41.40.780 for PERS Plan 3.

(2) **Purchasing ((TRS)) Plan 2 service credit after transferring to ((TRS)) Plan 3.** You may purchase service credit initially available under ((TRS)) Plan 2 after you transfer to ((TRS)) Plan 3. The service will be credited in ((TRS)) Plan 3. If you purchase Plan 2 service credit under this chapter, fifty percent of the money you pay to purchase the service

credit will be credited to ~~((the TRS))~~ your Plan 3 defined contribution account ~~((established under chapter 41.34 RCW))~~. The other fifty percent will be credited to the ~~((TRS))~~ Plan 3 defined benefit portion established under RCW 41.32.831 for TRS Plan 3, RCW 42.35.600 for SERS Plan 3 and RCW 41.40.780 for PERS Plan 3.

(3) **Not applicable for service earned after transferring to ((TRS)) Plan 3 ((cannot be purchased))**. Service ~~((earned))~~ you earn as a Plan 3 member is automatically recredited if ~~((the member))~~ you reenter~~((s))~~ membership and earn~~((s))~~ at least twelve service credit months. Plan 3 does not have any deadlines on establishing optional service. Because there are no deadlines for establishing or reestablishing service credit there is no provision for purchasing service credit earned in Plan 3 under RCW 41.50.165.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 415-10-110 Can I purchase SERS Plan 2 credit in SERS Plan 3?

AMENDATORY SECTION (Amending WSR 00-10-015, filed 4/21/00, effective 5/22/00)

WAC 415-108-315 ~~((Designation of beneficiaries—Death benefit if a member dies before retirement.))~~ Can I specify who can receive my benefits if I die in service? (1) ~~((As a member,))~~ You have the right to designate a beneficiary or beneficiaries to receive a benefit ~~((in the event of your death))~~ if you die while you are an active member. You may change your beneficiary designation at any time by filing a change of beneficiary form with the department.

(2) As a member you may name:

(a) An organization or person, including your unborn or later adopted children. Unborn or later adopted children will not be included unless you specifically designate them as beneficiaries on the form. You must state the date of birth for any living person you name as a beneficiary;

(b) Your estate; and/or

(c) A trust ~~((in existence at the time of death))~~. Before making a distribution to any trust the department must receive:

(i) A copy of the trust document;

(ii) The name, address, and telephone number of the current trustee; and

(iii) The tax identification number~~((;~~

~~((A trust to be established under your last will))~~.

(3) You may name contingent beneficiaries in addition to primary beneficiaries.

(4) If you are a member of Plan 3, you may name the same or different beneficiaries for your defined benefit and defined contribution accounts.

Examples:

EXAMPLE ONE.

Facts

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists the "Barbara Trust." His daughter Barbara is the trust beneficiary. He checks the box to indicate that the trust is a primary beneficiary.

Result

Subject to applicable statute, at John's death, the department will consider both the Barbara Trust and daughter Ann as primary beneficiaries. The department will require the name of the trustee, the tax identification number, a copy of the trust and other information specified in this rule before distribution to the trust.

EXAMPLE TWO.

Facts

John, a member, completes a beneficiary designation form.

In the place on the form reserved for persons, he names his daughter Ann. He checks the box to indicate that Ann is a primary beneficiary.

In the place on the form reserved for trust/organizational beneficiaries, he lists his daughter Barbara personally ~~((;))~~ i.e., no trust name is provided~~((;))~~. ~~((He checks the box labeled "primary beneficiary." John misunderstands the form and rather than provide the names of the trustee or trust administrator, John writes the word "both" in the blank provided.))~~ John checks the corresponding box to indicate a primary beneficiary designation. At John's death, the department learns that John has created no trusts.

Result

~~((At John's death, the department learns that John has created no trusts. Subject to existing statute, if the department receives no notice of competing claims to John's death benefit, the department will distribute the death benefit to Ann.))~~ Because John has created no trust, the designation in the trust/organizational location on the form is void. Subject to existing law, the department will issue the death benefit to Ann unless it receives a notice of a competing claim. If the department receives notice of competing claims, a court resolution may be required.

AMENDATORY SECTION (Amending WSR 99-14-008, filed 6/24/99, effective 7/25/99)

WAC 415-108-324 ~~((Married member's benefit selection—Spousal consent required.))~~ I am married - do

I need my spouse's consent on the retirement option I choose? (1) ~~((The member,))~~ If married, you must provide ~~((the))~~ your spouse's written consent to the option you selected under WAC 415-108-326. If, as a married member ~~((does)),~~ you do not provide spousal consent, the department will pay ~~((the retired member))~~ you as a retiree, a joint and one-half survivor benefit allowance and record ~~((the member's))~~ your spouse as the survivor in compliance with ~~((chapter 41.40 RCW and RCW 41.40.660(2)))~~ RCW 41.40.188 (2)(a), 41.40.660 (2)(a), and 41.40.845 (2)(a).

(2) Spousal consent is not needed to enforce a marital dissolution order requiring the department to pay an ex-spouse under RCW 41.50.790.

(3) "Spousal consent" means that ~~((the married member's))~~ your spouse consents to the retirement option you selected ~~((by the member)).~~ ~~((The))~~ Your spouse's notarized signature on a completed retirement application constitutes spousal consent.

AMENDATORY SECTION (Amending WSR 96-03-100, filed 1/19/96, effective 2/19/96)

WAC 415-108-340 Actuarial tables, schedules, and factors. This ~~((chapter))~~ section contains the tables, schedules, and factors ~~((adopted by the director of the department of retirement systems))~~ for calculating optional retirement allowances and postretirement adjustments of members of the Washington state public employees' retirement system (PERS). These tables, schedules, and factors were adopted by the director upon the recommendation of the state actuary ~~((based on the actuary's))~~ after investigation into the mortality, service, compensation, and other experience of the PERS members and beneficiaries ~~((of public employees' retirement system. The tables, schedules, and factors contained in this chapter shall govern the retirement allowances only of members retiring during the period from January 1, 1996, until such time as these tables, schedules, and factors are amended by the director following the next actuarial investigation conducted by the state actuary. The retirement allowances calculated at the time of retirement of members retiring before January 1, 1996, shall continue to be governed by the tables, schedules, and factors in effect when each member retires. Any new tables, schedules, and factors adopted by the director in the future shall govern retirement allowances calculated at the time of retirement only of members retiring after the adoption of such new tables, schedules, and factors)).~~

(1) These tables, schedules and factors may be amended from time to time, based upon subsequent actuarial investigation.

(2) The department will use the tables, schedules and factors in effect upon the member's retirement to calculate the member's retirement allowance. Accordingly, these values apply to the calculation of retirement allowances for those who retire on or after January 1, 1996 (until subsequent amendment).

(3) The department will use these tables, schedules and factors to calculate postretirement adjustments that become effective on or after January 1, 1996, even though the mem-

ber's retirement allowance was initially calculated using a prior set of tables, schedules and factors.

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLAN 1

Early Retirement Factors
by Year and Month

0	0	1.0000
	1	.9915
	2	.9830
	3	.9746
	4	.9661
	5	.9576
	6	.9491
	7	.9407
	8	.9322
	9	.9237
	10	.9152
	11	.9068
1	0	.8983
	1	.8908
	2	.8834
	3	.8759
	4	.8685
	5	.8610
	6	.8536
	7	.8461
	8	.8387
	9	.8312
	10	.8238
	11	.8163
2	0	.8089
	1	.8023
	2	.7957
	3	.7892
	4	.7826
	5	.7760
	6	.7694
	7	.7629
	8	.7563
	9	.7497
	10	.7431
	11	.7366
3	0	.7300
	1	.7242
	2	.7183
	3	.7125
	4	.7067

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Early Retirement Factors
by Year and Month

	5	.7009
	6	.6951
	7	.6892
	8	.6834
	9	.6776
	10	.6718
	11	.6660
4	0	.6601
	1	.6550
	2	.6498
	3	.6446
	4	.6395
	5	.6343
	6	.6291
	7	.6240
	8	.6188
	9	.6136
	10	.6085
	11	.6033
5	0	.5981
	1	.5935
	2	.5889
	3	.5843
	4	.5797
	5	.5751
	6	.5705
	7	.5659
	8	.5613
	9	.5567
	10	.5521
	11	.5475
6	0	.5429
	1	.5388
	2	.5347
	3	.5306
	4	.5265
	5	.5224
	6	.5182
	7	.5141
	8	.5100
	9	.5059
	10	.5018
	11	.4977
7	0	.4936
	1	.4899

Early Retirement Factors
by Year and Month

	2	.4862
	3	.4825
	4	.4789
	5	.4752
	6	.4715
	7	.4678
	8	.4642
	9	.4605
	10	.4568
	11	.4531
8	0	.4494
	1	.4461
	2	.4428
	3	.4395
	4	.4362
	5	.4329
	6	.4296
	7	.4263
	8	.4230
	9	.4197
	10	.4164
	11	.4131
9	0	.4098
	1	.4068
	2	.4039
	3	.4009
	4	.3979
	5	.3950
	6	.3920
	7	.3890
	8	.3860
	9	.3831
	10	.3801
	11	.3771
10	0	.3742
	1	.3715
	2	.3688
	3	.3661
	4	.3635
	5	.3608
	6	.3581
	7	.3554
	8	.3528
	9	.3501
	10	.3474

PERMANENT

Early Retirement Factors
by Year and Month

	11	.3447
11	0	.3420
	1	.3396
	2	.3372
	3	.3348
	4	.3324
	5	.3300
	6	.3275
	7	.3251
	8	.3227
	9	.3203
	10	.3179
	11	.3154
12	0	.3130
	1	.3108
	2	.3087
	3	.3065
	4	.3043
	5	.3021
	6	.2999
	7	.2977
	8	.2955
	9	.2933
	10	.2912
	11	.2890
13	0	.2868
	1	.2848
	2	.2828
	3	.2808
	4	.2789
	5	.2769
	6	.2749
	7	.2729
	8	.2709
	9	.2689
	10	.2670
	11	.2650
14	0	.2630
	1	.2612
	2	.2594
	3	.2576
	4	.2558
	5	.2540
	6	.2522
	7	.2504

Early Retirement Factors
by Year and Month

	8	.2486
	9	.2468
	10	.2450
	11	.2432
15	0	.2414
	1	.2398
	2	.2381
	3	.2365
	4	.2348
	5	.2332
	6	.2316
	7	.2299
	8	.2283
	9	.2267
	10	.2250
	11	.2234
16	0	.2218
	1	.2203
	2	.2188
	3	.2173
	4	.2158
	5	.2143
	6	.2128
	7	.2113
	8	.2098
	9	.2084
	10	.2069
	11	.2054
17	0	.2039
	1	.2025
	2	.2012
	3	.1998
	4	.1985
	5	.1971
	6	.1957
	7	.1944
	8	.1930
	9	.1917
	10	.1903
	11	.1890
18	0	.1876
	1	.1864
	2	.1851
	3	.1839
	4	.1826

PERMANENT

Early Retirement Factors
by Year and Month

Early Retirement Factors
by Year and Month

	5	.1814		2	.1336
	6	.1802		3	.1327
	7	.1789		4	.1319
	8	.1777		5	.1310
	9	.1764		6	.1301
	10	.1752		7	.1293
	11	.1740		8	.1284
19	0	.1727		9	.1275
	1	.1716		10	.1267
	2	.1705		11	.1258
	3	.1693	23	0	.1249
	4	.1682		1	.1241
	5	.1671		2	.1233
	6	.1659		3	.1225
	7	.1648		4	.1217
	8	.1637		5	.1209
	9	.1625		6	.1201
	10	.1614		7	.1193
	11	.1603		8	.1185
20	0	.1591		9	.1177
	1	.1581		10	.1169
	2	.1571		11	.1161
	3	.1560	24	0	.1153
	4	.1550		1	.1146
	5	.1540		2	.1139
	6	.1529		3	.1132
	7	.1519		4	.1124
	8	.1509		5	.1117
	9	.1498		6	.1110
	10	.1488		7	.1102
	11	.1478		8	.1095
21	0	.1467		9	.1088
	1	.1458		10	.1080
	2	.1448		11	.1073
	3	.1439	25	0	.1066
	4	.1429		1	.1059
	5	.1420		2	.1052
	6	.1410		3	.1046
	7	.1401		4	.1039
	8	.1391		5	.1032
	9	.1382		6	.1025
	10	.1372		7	.1019
	11	.1363		8	.1012
22	0	.1353		9	.1005
	1	.1345		10	.0998

PERMANENT

Early Retirement Factors
by Year and Month

	11	.0992
26	0	.0985
	1	.0979
	2	.0973
	3	.0966
	4	.0960
	5	.0954
	6	.0948
	7	.0942
	8	.0936
	9	.0929
	10	.0923
	11	.0917
27	0	.0911
	1	.0905
	2	.0899
	3	.0894
	4	.0888
	5	.0882
	6	.0877
	7	.0871
	8	.0865
	9	.0860
	10	.0854
	11	.0848
28	0	.0842
	1	.0837
	2	.0832
	3	.0827
	4	.0822
	5	.0816
	6	.0811
	7	.0806
	8	.0801
	9	.0795
	10	.0790
	11	.0785
29	0	.0780
	1	.0775
	2	.0770
	3	.0765
	4	.0760
	5	.0755
	6	.0751
	7	.0746

Early Retirement Factors
by Year and Month

	8	.0741
	9	.0736
	10	.0731
	11	.0726
30	0	.0722
	1	.0717
	2	.0713
	3	.0708
	4	.0704
	5	.0699
	6	.0695
	7	.0690
	8	.0686
	9	.0682
	10	.0677
	11	.0673
31	0	.0668
	1	.0664
	2	.0660
	3	.0656
	4	.0652
	5	.0648
	6	.0644
	7	.0639
	8	.0635
	9	.0631
	10	.0627
	11	.0623
32	0	.0619
	1	.0615
	2	.0611
	3	.0608
	4	.0604
	5	.0600
	6	.0596
	7	.0592
	8	.0589
	9	.0585
	10	.0581
	11	.0577
33	0	.0573
	1	.0570
	2	.0566
	3	.0563
	4	.0559

PERMANENT

Early Retirement Factors		40	.0045029
by Year and Month		41	.0045502
	5 .0556	42	.0046001
	6 .0552	43	.0046528
	7 .0549	44	.0047084
	8 .0545	45	.0047670
	9 .0542	46	.0048287
	10 .0538	47	.0048939
	11 .0535	48	.0049626
34	0 .0531	49	.0050352
	1 .0528	50	.0051120
	2 .0525	51	.0051933
	3 .0522	52	.0052795
	4 .0518	53	.0053712
	5 .0515	54	.0054687
	6 .0512	55	.0055727
	7 .0509	56	.0056837
	8 .0506	57	.0058025
	9 .0502	58	.0059296
	10 .0499	59	.0060657
	11 .0496	60	.0062116
35	or more .0493	61	.0063676

PUBLIC EMPLOYEES RETIREMENT SYSTEM
 ((Plan II)) Plans 2 and 3 Option 1
 Monthly Benefit per \$1.00
 of Accumulation

20	.0039357	62	.0065347
21	.0039525	63	.0067134
22	.0039702	64	.0069044
23	.0039887	65	.0071085
24	.0040081	66	.0073263
25	.0040286	67	.0075587
26	.0040500	68	.0078066
27	.0040726	69	.0080711
28	.0040963	70	.0083537
29	.0041213	71	.0086558
30	.0041476	72	.0089785
31	.0041753	73	.0093230
32	.0042044	74	.0096898
33	.0042351	75	.0100792
34	.0042675	76	.0104910
35	.0043015	77	.0109250
36	.0043375	78	.0113811
37	.0043756	79	.0118589
38	.0044157	80	.0123587
39	.0044581	81	.0128793
		82	.0134243
		83	.0139934
		84	.0145880
		85	.0152103
		86	.0158600

PERMANENT

		Public Employees Retirement System PERS I Optional COLA*		Public Employees Retirement System Plan 1 Option 1 Monthly Benefit per \$1.00 of Accumulation	
87	.0165374				
88	.0172413				
89	.0179682				
90	.0187162				
91	.0194835				
92	.0202654				
93	.0210569				
94	.0218459				
95	.0226265				
96	.0234038				
97	.0241752				
98	.0249356				
99	.0256785				
				Age	
				49	0.7149
				50	0.7188
				51	0.7229
				52	0.7270
				53	0.7312
				54	0.7355
				55	0.7399
				56	0.7444
				57	0.7490
				58	0.7537
				59	0.7585
				60	0.7633
				61	0.7682
				62	0.7733
				63	0.7783
				64	0.7835
				65	0.7887
				66	0.7939
				67	0.7992
				68	0.8046
				69	0.8099
				70	0.8154
				71	0.8208
				72	0.8263
				73	0.8317
				74	0.8372
				75	0.8426
				76	0.8480
				77	0.8534
				78	0.8584
				79	0.8641
				80	0.8693
				81	0.8745
				82	0.8796
				83	0.8846
				84	0.8896
				85	0.8945
				86	0.8993
				87	0.9040
				88	0.9086
				89	0.9131
				90	0.9174
				91	0.9216
Public Employees Retirement System PERS I Optional COLA*		Public Employees Retirement System Plan 1 Option 1 Monthly Benefit per \$1.00 of Accumulation			
Age					
20	0.6369	20	.0061792		
21	0.6386	21	.0061891		
22	0.6404	22	.0061997		
23	0.6422	23	.0062111		
24	0.6441	24	.0062232		
25	0.6460	25	.0062362		
26	0.6480	26	.0062501		
27	0.6501	27	.0062650		
28	0.6522	28	.0062809		
29	0.6544	29	.0062979		
30	0.6567	30	.0063162		
31	0.6590	31	.0063357		
32	0.6614	32	.0063566		
33	0.6639	33	.0063790		
34	0.6665	34	.0064030		
35	0.6691	35	.0064286		
36	0.6718	36	.0064561		
37	0.6747	37	.0064856		
38	0.6775	38	.0065173		
39	0.6805	39	.0065512		
40	0.6836	40	.0065875		
41	0.6867	41	.0066263		
42	0.6899	42	.0066677		
43	0.6932	43	.0067119		
44	0.6966	44	.0067590		
45	0.7001	45	.0068091		
46	0.7036	46	.0068624		
47	0.7073	47	.0069190		
48	0.7111	48	.0069792		

PERMANENT

Public Employees Retirement System PERS I Optional COLA*	Public Employees Retirement System Plan 1 Option 1 Monthly Benefit per \$1.00 of Accumulation	Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
		5	0.778	0.840	0.875
		6	0.773	0.837	0.872
Age		7	0.766	0.831	0.868
92 0.9255	92 .0218957	8	0.757	0.824	0.862
93 0.9294	93 .0226575	9	0.746	0.815	0.854
94 0.9329	94 .0234160	10	0.736	0.807	0.848
95 0.9363	95 .0241655	11	0.729	0.801	0.843
96 0.9395	96 .0249116	12	0.724	0.798	0.840
97 0.9424	97 .0256520	13	0.720	0.794	0.837
98 0.9452	98 .0263822	14	0.715	0.790	0.834
99 0.9477	99 .0270961	15	0.711	0.787	0.832
		16	0.708	0.784	0.829
		17	0.704	0.781	0.827
		18	0.702	0.779	0.825
		19	0.698	0.776	0.822
		20	0.695	0.774	0.820
		21	0.692	0.772	0.818
		22	0.689	0.769	0.816
		23	0.686	0.767	0.814
		24	0.683	0.764	0.812
		25	0.681	0.763	0.811
		26	0.679	0.761	0.809
		27	0.677	0.759	0.808
		28	0.675	0.758	0.806
		29	0.673	0.756	0.805
		30	0.671	0.754	0.804
		31	0.669	0.753	0.802
		32	0.668	0.752	0.801
		33	0.667	0.750	0.800
		34	0.666	0.749	0.799
		35	0.664	0.747	0.798
		36	0.663	0.747	0.797
		37	0.662	0.746	0.796
		38	0.661	0.745	0.796
		39	0.660	0.744	0.795
		40	0.659	0.743	0.794
					Age difference = member's age minus beneficiary's age

PERS I Survivor Option Factors

Member Younger

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
20	0.948	0.965	0.973
-19	0.945	0.963	0.972
-18	0.940	0.959	0.969
-17	0.936	0.956	0.967
-16	0.933	0.954	0.965
-15	0.929	0.951	0.963
-14	0.925	0.949	0.961
-13	0.921	0.946	0.959
-12	0.916	0.943	0.956
-11	0.910	0.938	0.953
-10	0.906	0.935	0.950
-9	0.900	0.931	0.948
-8	0.895	0.928	0.945
-7	0.889	0.923	0.941
-6	0.882	0.918	0.937
-5	0.876	0.914	0.934
-4	0.868	0.908	0.930
-3	0.860	0.902	0.925
-2	0.849	0.894	0.918
-1	0.836	0.884	0.911

PERS ((H)) Plans 2 and 3 Survivor Option Factors

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)	Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
0	.822	0.874	0.902				
1	0.808	0.863	0.894				
2	0.796	0.854	0.886	-20	.928	0.951	0.962
3	0.787	0.848	0.881	-19	0.925	0.949	0.961
4	0.782	0.844	0.878	-18	0.922	0.946	0.959

PERMANENT

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
-17	0.919	0.945	0.958
-16	0.916	0.942	0.956
-15	0.912	0.940	0.954
-14	0.908	0.937	0.952
-13	0.904	0.933	0.949
-12	0.898	0.930	0.946
-11	0.892	0.925	0.943
-10	0.885	0.920	0.939
-9	0.879	0.916	0.935
-8	0.873	0.911	0.932
-7	0.865	0.906	0.927
-6	0.857	0.900	0.923
-5	0.849	0.894	0.918
-4	0.839	0.887	0.912
-3	0.828	0.878	0.906
-2	0.813	0.867	0.897
-1	0.797	0.855	0.887

Age Difference	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
26	0.573	0.668	0.729
27	0.569	0.665	0.726
28	0.565	0.661	0.722
29	0.562	0.658	0.720
30	0.558	0.655	0.717
31	0.555	0.652	0.714
32	0.552	0.649	0.712
33	0.549	0.647	0.709
34	0.546	0.644	0.707
35	0.543	0.641	0.705
36	0.540	0.638	0.702
37	0.538	0.637	0.700
38	0.535	0.634	0.698
39	0.533	0.632	0.696
40	0.531	0.630	0.695

Age difference = member's age minus beneficiary's age

PUBLIC EMPLOYEES RETIREMENT SYSTEM
PLANS 2 AND 3

Age Difference	Member Older		
	OPTION II (100%)	OPTION IV (66 2/3%)	OPTION III (50%)
0	0.779	0.841	0.876
1	0.763	0.829	0.866
2	0.748	0.817	0.856
3	0.735	0.807	0.848
4	0.725	0.798	0.841
5	0.716	0.791	0.835
6	0.708	0.785	0.830
7	0.698	0.777	0.823
8	0.687	0.767	0.815
9	0.674	0.757	0.806
10	0.662	0.747	0.797
11	0.653	0.739	0.791
12	0.646	0.733	0.786
13	0.640	0.728	0.781
14	0.634	0.722	0.776
15	0.628	0.717	0.772
16	0.622	0.712	0.767
17	0.616	0.707	0.763
18	0.611	0.702	0.759
19	0.606	0.698	0.755
20	0.602	0.694	0.751
21	0.596	0.689	0.747
22	0.591	0.684	0.743
23	0.587	0.681	0.740
24	0.582	0.676	0.736
25	0.577	0.672	0.732

Early Retirement Factors
by Year and Month

0	0	1.0000
	1	.9910
	2	.9821
	3	.9731
	4	.9641
	5	.9551
	6	.9462
	7	.9372
	8	.9282
	9	.9193
	10	.9103
	11	.9013
1	0	.8923
	1	.8845
	2	.8767
	3	.8688
	4	.8610
	5	.8531
	6	.8453
	7	.8374
	8	.8296
	9	.8217
	10	.8139
	11	.8061

PERMANENT

Early Retirement Factors
by Year and Month

2	0	.7982
	1	.7913
	2	.7844
	3	.7776
	4	.7707
	5	.7638
	6	.7569
	7	.7500
	8	.7431
	9	.7363
	10	.7294
3	11	.7225
	0	.7156
	1	.7096
	2	.7035
	3	.6975
	4	.6914
	5	.6853
	6	.6793
	7	.6732
	8	.6672
	9	.6611
4	10	.6551
	11	.6490
	0	.6429
	1	.6376
	2	.6322
	3	.6269
	4	.6215
	5	.6162
	6	.6109
	7	.6055
	8	.6002
5	9	.5948
	10	.5895
	11	.5841
	0	.5788
	1	.5740
	2	.5693
	3	.5646
	4	.5598
	5	.5551
	6	.5504
	7	.5456
8	.5409	
9	.5362	

Early Retirement Factors
by Year and Month

6	10	.5314
	11	.5267
	0	.5220
	1	.5178
	2	.5136
	3	.5094
	4	.5052
	5	.5010
	6	.4968
	7	.4926
	8	.4884
7	9	.4842
	10	.4800
	11	.4758
	0	.4716
	1	.4678
	2	.4641
	3	.4603
	4	.4566
	5	.4529
	6	.4491
	7	.4454
8	8	.4416
	9	.4379
	10	.4342
	11	.4304
	0	.4267
	1	.4234
	2	.4200
	3	.4167
	4	.4134
	5	.4100
	6	.4067
7	.4033	
9	8	.4000
	9	.3967
	10	.3933
	11	.3900
	0	.3867
	1	.3837
	2	.3807
	3	.3777
	4	.3747
	5	.3718
	6	.3688
7	.3658	

PERMANENT

Early Retirement Factors
by Year and Month

	8	.3628
	9	.3598
	10	.3569
	11	.3539
10	0	.3509
	1	.3482
	2	.3456
	3	.3429
	4	.3402
	5	.3375
	6	.3349
	7	.3322
	8	.3295
	9	.3269
	10	.3242
	11	.3215
11	0	.3188
	1	.3165
	2	.3141
	3	.3117
	4	.3093
	5	.3069
	6	.3045
	7	.3021
	8	.2997
	9	.2973
	10	.2949
	11	.2925
12	0	.2901
	1	.2879
	2	.2858
	3	.2836
	4	.2815
	5	.2793
	6	.2771
	7	.2750
	8	.2728
	9	.2707
	10	.2685
	11	.2664
13	0	.2642
	1	.2623
	2	.2603
	3	.2584
	4	.2564
	5	.2545

Early Retirement Factors
by Year and Month

	6	.2526
	7	.2506
	8	.2487
	9	.2467
	10	.2448
	11	.2429
14	0	.2409
	1	.2392
	2	.2374
	3	.2357
	4	.2339
	5	.2322
	6	.2304
	7	.2287
	8	.2269
	9	.2252
	10	.2234
	11	.2216
15	0	.2199
	1	.2183
	2	.2167
	3	.2151
	4	.2136
	5	.2120
	6	.2104
	7	.2088
	8	.2072
	9	.2057
	10	.2041
	11	.2025
16	0	.2009
	1	.1995
	2	.1980
	3	.1966
	4	.1952
	5	.1937
	6	.1923
	7	.1909
	8	.1894
	9	.1880
	10	.1866
	11	.1851
17	0	.1837
	1	.1824
	2	.1811
	3	.1798

PERMANENT

Early Retirement Factors
by Year and Month

	4	.1785
	5	.1772
	6	.1759
	7	.1746
	8	.1733
	9	.1720
	10	.1707
	11	.1694
18	0	.1681
	1	.1670
	2	.1658
	3	.1646
	4	.1634
	5	.1623
	6	.1611
	7	.1599
	8	.1587
	9	.1575
	10	.1564
	11	.1552
19	0	.1540
	1	.1529
	2	.1519
	3	.1508
	4	.1497
	5	.1487
	6	.1476
	7	.1465
	8	.1455
	9	.1444
	10	.1433
	11	.1422
20	0	.1412
	1	.1402
	2	.1392
	3	.1383
	4	.1373
	5	.1363
	6	.1353
	7	.1344
	8	.1334
	9	.1324
	10	.1315
	11	.1305
21	0	.1295
	1	.1286

Early Retirement Factors
by Year and Month

	2	.1277
	3	.1269
	4	.1260
	5	.1251
	6	.1242
	7	.1233
	8	.1224
	9	.1215
	10	.1207
	11	.1198
22	0	.1189
	1	.1181
	2	.1173
	3	.1165
	4	.1157
	5	.1149
	6	.1140
	7	.1132
	8	.1124
	9	.1116
	10	.1108
	11	.1100
23	0	.1092
	1	.1085
	2	.1077
	3	.1070
	4	.1063
	5	.1055
	6	.1048
	7	.1041
	8	.1033
	9	.1026
	10	.1018
	11	.1011
24	0	.1004
	1	.0997
	2	.0990
	3	.0984
	4	.0977
	5	.0970
	6	.0963
	7	.0957
	8	.0950
	9	.0943
	10	.0937
	11	.0930

PERMANENT

Early Retirement Factors
by Year and Month

25	0	.0923
	1	.0917
	2	.0911
	3	.0905
	4	.0898
	5	.0892
	6	.0886
	7	.0880
	8	.0874
	9	.0868
	10	.0862
	11	.0856
26	0	.0849
	1	.0844
	2	.0838
	3	.0833
	4	.0827
	5	.0821
	6	.0816
	7	.0810
	8	.0804
	9	.0799
	10	.0793
	11	.0788
27	0	.0782
	1	.0777
	2	.0772
	3	.0767
	4	.0761
	5	.0756
	6	.0751
	7	.0746
	8	.0741
	9	.0736
	10	.0731
	11	.0725
28	0	.0720
	1	.0716
	2	.0711
	3	.0706
	4	.0701
	5	.0697
	6	.0692
	7	.0687
	8	.0683
	9	.0678

Early Retirement Factors
by Year and Month

	10	.0673
	11	.0668
29	0	.0664
	1	.0659
	2	.0655
	3	.0651
	4	.0646
	5	.0642
	6	.0638
	7	.0634
	8	.0629
	9	.0625
	10	.0621
	11	.0616
30	0	.0612
	1	.0608
	2	.0604
	3	.0600
	4	.0596
	5	.0592
	6	.0588
	7	.0584
	8	.0580
	9	.0576
	10	.0572
	11	.0568
31	0	.0564
	1	.0561
	2	.0557
	3	.0553
	4	.0550
	5	.0546
	6	.0543
	7	.0539
	8	.0535
	9	.0532
	10	.0528
	11	.0524
32	0	.0521
	1	.0517
	2	.0514
	3	.0511
	4	.0507
	5	.0504
	6	.0501
	7	.0497

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Early Retirement Factors
by Year and Month

Early Retirement Factors
by Year and Month

	8	.0494
	9	.0491
	10	.0487
	11	.0484
33	0	.0481
	1	.0478
	2	.0475
	3	.0471
	4	.0468
	5	.0465
	6	.0462
	7	.0459
	8	.0456
	9	.0453
	10	.0450
	11	.0447
34	0	.0444
	1	.0441
	2	.0438
	3	.0435
	4	.0433
	5	.0430
	6	.0427
	7	.0424
	8	.0421
	9	.0418
	10	.0416
	11	.0413
35	0	.0410
	1	.0407
	2	.0405
	3	.0402
	4	.0400
	5	.0397
	6	.0394
	7	.0392
	8	.0389
	9	.0387
	10	.0384
	11	.0381
36	0	.0379
	1	.0376
	2	.0374
	3	.0372
	4	.0369
	5	.0367

	6	.0364
	7	.0362
	8	.0360
	9	.0357
	10	.0355
	11	.0352
37	0	.0350
	1	.0348
	2	.0346
	3	.0343
	4	.0341
	5	.0339
	6	.0337
	7	.0335
	8	.0332
	9	.0330
	10	.0328
	11	.0326
38	0	.0324
	1	.0322
	2	.0320
	3	.0318
	4	.0316
	5	.0313
	6	.0311
	7	.0309
	8	.0307
	9	.0305
	10	.0303
	11	.0301
39	0	.0299
	1	.0297
	2	.0296
	3	.0294
	4	.0292
	5	.0290
	6	.0288
	7	.0286
	8	.0284
	9	.0282
	10	.0281
	11	.0279
40	0	.0277
	1	.0275
	2	.0273
	3	.0272

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Early Retirement Factors
by Year and Month

	4	.0270
	5	.0268
	6	.0266
	7	.0265
	8	.0263
	9	.0261
	10	.0260
	11	.0258
41	0	.0256
	1	.0255
	2	.0253
	3	.0251
	4	.0250
	5	.0248
	6	.0247
	7	.0245
	8	.0243
	9	.0242
	10	.0240
	11	.0239
42	0	.0237
	1	.0236
	2	.0234
	3	.0233
	4	.0231
	5	.0230
	6	.0228
	7	.0227
	8	.0225
	9	.0224
	10	.0222
	11	.0221
43	0	.0219
	1	.0218
	2	.0217
	3	.0215
	4	.0214
	5	.0213
	6	.0211
	7	.0210
	8	.0209
	9	.0207
	10	.0206
	11	.0205
44	0	.0203
	1	.0202

Early Retirement Factors
by Year and Month

	2	.0201
	3	.0199
	4	.0198
	5	.0197
	6	.0196
	7	.0194
	8	.0193
	9	.0192
	10	.0191
	11	.0189
45	or more	.0188

AMENDATORY SECTION (Amending WSR 98-09-059, filed 4/17/98, effective 5/18/98)

WAC 415-108-441 Purpose and scope of compensation earnable rules. WAC 415-108-443 through 415-108-488 codify the department's ~~((existing))~~ interpretation of statutes and ~~((existing))~~ administrative practice regarding classification of payments as compensation earnable in PERS Plan ~~((I and PERS Plan II))~~ 1, 2, or 3. ~~((The department has applied and will apply))~~ These rules will be used to determine the proper characterization of payments occurring prior to and after the effective dates of these sections.

AMENDATORY SECTION (Amending WSR 98-09-059, filed 4/17/98, effective 5/18/98)

WAC 415-108-443 PERS reportable compensation table. The following table ~~((is provided as a quick reference guide to))~~ will help you ((characterize)) determine whether certain types of payments are reportable compensation under Plan ~~((I and Plan II))~~ 1, 2, or 3. Be sure to ~~((turn to))~~ read the referenced rule to ensure that you have correctly identified the payment in question. The department determines compensation earnable based upon the nature of the payment, not the name applied ~~((to it)).~~ See WAC 415-108-445.

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Type of Payment	PERS ((H)) 1 Reportable Compensation?	PERS ((H)) 2 or 3 Reportable Compensation?
Annual Leave Cash Outs	Yes - WAC 415-108-456	No - WAC 415-108-456
Assault Pay (State Emp.)	Yes - WAC 415-108-468	Yes - WAC 415-108-468
Base Rate	Yes - WAC 415-108-451	Yes - WAC 415-108-451
Car Allowances	No - WAC 415-108-485 ¹	No - WAC 415-108-485
Cafeteria Plans	Yes - WAC 415-108-455	Yes - WAC 415-108-455
Deferred Wages	Yes - WAC 415-108-459	Yes - WAC 415-108-459
Disability Payments	No - WAC 415-108-477	No - WAC 415-108-477
Disability: Salary lost while on disability leave	Yes - WAC 415-108-468 RCW 41.40.038	Yes - WAC 415-108-468 RCW 41.40.038
Employer Provided Vehicle	No - WAC 415-108-480 ²	No - WAC 415-108-480
Employer taxes/contributions	No - WAC 415-108-459	No - WAC 415-108-459
Fringe Benefits	No - WAC 415-108-475	No - WAC 415-108-475
Illegal Payments	No - WAC 415-108-482	No - WAC 415-108-482
Legislative Leave	Yes - WAC 415-108-464	Yes - WAC 415-108-464
Longevity/Education Attainment Pay	Yes - WAC 415-108-451	Yes - WAC 415-108-451
Nonmoney Maintenance	Yes - WAC 415-108-470 ³	No - WAC 415-108-470
Optional Payments	No - WAC 415-108-483	No - WAC 415-108-483
Payments in Lieu of Excluded Items	No - WAC 415-108-463	No - WAC 415-108-463
Performance Bonuses	Yes - WAC 415-108-453	Yes - WAC 415-108-453

¹A portion of the value of an employer car allowance may be reportable, see WAC 415-108-485.

²A portion of the value of an employer provided vehicle may be reportable in Plan I only, see WAC 415-108-480.

³A portion of the value of nonmoney maintenance provided may be reportable in Plan I only, see WAC 415-108-470.

Type of Payment	PERS ((H)) 1 Reportable Compensation?	PERS ((H)) 2 or 3 Reportable Compensation?
Retroactive Salary Increase	Yes - WAC 415-108-457	Yes - WAC 415-108-457
Reimbursements	No - WAC 415-108-484	No - WAC 415-108-484
Reinstatement Payments	Yes - WAC 415-108-467	Yes - WAC 415-108-467
Retirement or Termination Bonuses	No - WAC 415-108-487	No - WAC 415-108-487
Severance Pay - Earned Over Time	Yes - WAC 415-108-458	No - WAC 415-108-458
Severance Pay - Not Earned Over Time	No - WAC 415-108-488	No - WAC 415-108-488
Shared Leave - State Emp.	Yes - WAC 415-108-468	Yes - WAC 415-108-468
Shared Leave - Local Government Employees	No - WAC 415-108-468	No - WAC 415-108-468
Sick Leave Cash Outs - State Employees	No - WAC 415-108-456	No - WAC 415-108-456
Sick Leave Cash Out - Local Government Employees	Yes - WAC 415-108-456	No - WAC 415-108-456
Standby Pay	Yes - WAC 415-108-469	Yes - WAC 415-108-469

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Time Off with Pay	Yes - WAC 415-108-456 WAC 415-108-465	Yes - WAC 415-108-456 WAC 415-108-465
Union Leave ⁴	Yes - WAC 415-108-466	Yes - WAC 415-108-466
Worker's Compensation	No - WAC 415-108-479	No - WAC 415-108-479

⁴Only specific types of union leave are reportable, see WAC 415-108-466.

AMENDATORY SECTION (Amending WSR 98-09-059, filed 4/17/98, effective 5/18/98)

WAC 415-108-456 Leave payments earned over time. (1) **Sick and annual leave usage.** ~~((Sick leave and annual leave is accumulated over time and paid to a person during a period of excused absence. Leave accrues at a prescribed rate, usually a certain number of hours per month. The employee earns a leave day by rendering service during the month the leave accrued. When the employee uses his or her accrued leave by taking a scheduled work day off with pay, the payment is deferred compensation for services previously rendered. The payment is a salary or wage earned for services rendered and is reportable.))~~

- (a) Leave accrues at a prescribed rate, usually a certain number of hours per month.
- (b) You earn a leave day by providing service during the month the leave accrued.
- (c) Sick leave and annual leave are accumulated over time and paid to you during a period of excused absence.
- (d) When you use your accrued leave by taking a scheduled work day off with pay, the payment is deferred compensation for services previously provided.
- (e) The payment is a salary or wage earned for services provided and is reportable.

(2) **Annual leave cash outs.** Annual leave cash outs, like payments for leave usage, are deferred compensation earned for services previously ~~((rendered))~~ provided. Whether, and to what extent an annual leave cash out qualifies as reportable compensation depends upon ~~((which))~~ the PERS plan ((the member)) to which you belong((s-to)) and the type of employer.

(a) **Plans 2 and 3:** Annual leave cash outs are not reportable compensation ~~((for PERS Plan II members))~~. Although the payments are for services ~~((rendered))~~ provided, they are excluded from the definition of compensation earnable by statute~~((;))~~. See RCW 41.40.010 (8)(b).

(b) **Plan 1, state government employees:** A cash out of up to thirty days of annual leave for state government employees is reportable compensation ~~((for PERS Plan I.))~~. See RCW 43.01.040. A cash out in excess of thirty days of annual leave:

- (i) Qualifies as reportable compensation if ~~((#))~~ the leave is authorized by a letter of necessity under RCW 43.01.040. Annual leave qualifies as authorized under a letter of necessity only if the leave was earned after the letter of necessity was issued;
- (ii) Does not qualify as reportable compensation if ~~((#))~~ the leave is earned between the date that ((the member)) you

accrued thirty days of annual leave and ~~((the member's))~~ your anniversary date under RCW 43.01.044.

(c) **Plan 1 employees not covered by (2)(b):** All annual leave cash outs received by PERS Plan ~~((#))~~ 1 members who are not state employees qualify as reportable compensation.

(3) **Sick leave cash outs.** Sick leave cash outs are deferred compensation for services previously ~~((rendered))~~ provided.

(a) Sick leave cash outs are excluded from the definition of compensation earnable for PERS Plan ~~((#))~~ 2 or 3 members by statute~~((;))~~. See RCW 41.40.010 (8)(b).

(b) Sick leave cash outs are reportable compensation for PERS Plan ~~((#))~~ 1 members other than state, school district, and educational service district employees.

(c) Sick leave cash outs are excluded from reportable compensation for:

- (i) State employees by RCW 41.04.340;
 - (ii) School district employees by RCW 28A.400.210; and
 - (iii) Educational service district employees by RCW 28A.310.490.
- See RCW 41.40.010 (8)(a).

AMENDATORY SECTION (Amending WSR 98-09-059, filed 4/17/98, effective 5/18/98)

WAC 415-108-458 Severance pay earned over time.

(1) ~~((Plan I.))~~ **PERS Plan 1:** Severance pay ~~((must be))~~ earned over time ~~((in the same manner as annual leave or sick leave in order to be deferred compensation for services previously rendered and to be reportable in Plan I))~~ is reportable compensation. Conversely, severance pay ((is)) not earned over time ((if the employment contract(s) or compensation policies in effect at the beginning of a given period of employment specify that a certain amount of severance pay will be earned during that period in consideration for services rendered)) is not reportable compensation (see WAC 415-108-488). The difference is that severance pay earned over time is deferred compensation for services previously provided.

Severance pay is earned over time if the employment contract(s) or compensation policies in effect at the beginning of a given period of employment specify that a certain amount of severance pay will be earned during that period in consideration for services provided.

Example: Mr. Jones is a PERS Plan ~~((#))~~ 1 member employed as a city manager. Since the beginning of his term of employment with the city, his contract has specified that he will earn one

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week of severance pay for every year of his employment. The earned severance pay will be paid at the time of his separation. His severance pay is reportable compensation. When Mr. Jones retires, the two weeks severance pay that he earned during his two highest paid years (i.e., one week per year for two years) will be included in his PERS Plan ((H) 1) retirement calculation.

To the extent that severance pay qualifies as reportable compensation and is earned within ((the member's)) your average final compensation period, the severance pay is excess compensation(;;). See RCW 41.50.150.

(2) **PERS Plans ((H) 2 and 3):** All forms of severance pay are excluded from earnable compensation ((for Plans H by)). See RCW 41.40.010 (8)(b).

~~((3) Severance pay that is not earned over time is not earned for services rendered and is not reportable in Plan I or H, see WAC 415-108-488.))~~

AMENDATORY SECTION (Amending WSR 98-09-059, filed 4/17/98, effective 5/18/98)

WAC 415-108-464 Legislative leave. If ((a-PERS member)) you take((s-a)) leave without pay from an eligible position to serve in the legislature, ((the member)) you may ((elect)) choose to participate in PERS as a legislator.

(1) ~~Plan ((H-The salary the employee would have earned from their employer is reportable compensation if the required member contribution is paid by the member and the required employer contribution is paid by the member or the employer.))~~ **1: Your reportable compensation is the salary you would have earned from your employer. You must pay employee contributions on this amount. Either you or your employer must pay employer contributions on the amount.**

(2) ~~Plan ((H-The employee))~~ **2 or 3: You may choose ((between:**

~~(a-The))~~ **your reportable compensation ((he or she)) to be:**

(a) The reportable compensation you would have earned ((had the member not served in the legislature)) from your employer; or

(b) ((The)) Your actual reportable compensation for your legislative and nonlegislative ((public employment and the legislative)) service combined.

If ((the member selects option)) you choose (2)(a) of this subsection((, he or she is responsible for paying the additional employer and employee contributions to the extent the reportable compensation reported is higher than it would have been under (b) of this subsection)) **and your reportable compensation is higher than it would have been under (2)(b) of this subsection, you must pay both employee and employer contributions on the excess amount.**

AMENDATORY SECTION (Amending WSR 98-09-059, filed 4/17/98, effective 5/18/98)

WAC 415-108-465 Is paid leave not earned over time((r)) reportable compensation for PERS? ((If paid leave is not based upon earned leave accumulated over time,

~~the payment is not a deferred payment for services previously rendered. Further, the member on leave is not currently rendering services in exchange for the payment. However,))~~ RCW 41.40.175 and 41.40.710 identify payments received from the employer while on paid leave as reportable for PERS. Contributions are due on these payments to the extent they meet the following conditions:

(1) **The payment is equal to the salary ((for the position that the person is on leave from,)) that you normally earn in your position; and**

(2) **The payment is actually from the employer.** Payments from an employer that are conditioned upon reimbursement from a third party are payments from the third party. Because the payments are not from the employer, they are not reportable compensation. The only exception is union leave paid by the employer subject to reimbursement from the union under the conditions specified in RCW 41.40.175 (Plan ((H) 1) ((and)), RCW 41.40.710 (Plan ((H) 2), RCW 41.40.805 (Plan 3), and WAC 415-108-466.

Example: Joe injures himself off the job and collects labor and industries payments instead of compensation from his employer. Because the payments are not from his employer, they are not reportable compensation.

NEW SECTION

WAC 415-108-425 How do I determine if I have choice rights or transfer rights to PERS Plan 3? (1) Definitions:

(a) **"Concurrently employed"** means you are employed at the same time, in eligible positions, by a Phase 1 employer and by a Phase 2 employer.

(b) **"Exercising choice rights"** means choosing Plan 2 or Plan 3 or defaulting into Plan 3.

(c) **"Phase 1 employer"** means state agencies and institutes of higher education.

(d) **"Phase 2 employer"** means all other employers.

(e) **"Phase 1 transfer period"** is the period from March 1, 2002, through and including August 31, 2002.

(f) **"Phase 2 transfer period"** is the period from September 1, 2002, through and including May 31, 2003.

(2) **What determines if I have "choice rights" or "transfer rights"?** Your current employment status and your employment history will be used to determine if you have choice rights or transfer rights. If your employment status changes, your rights must be reevaluated. A change in your employment status, such as separating from employment or becoming reemployed, may change your rights.

(3) **What are "choice rights" and how are they applied?** "Choice rights" refers to your right, within a ninety-day period, to make an irrevocable choice to become a member of Plan 2 or Plan 3.

(a) You will be reported in Plan 2 until you exercise choice rights.

(b) You must make a choice within ninety days of your first day of employment in an eligible position.

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(c) You will be defaulted into Plan 3 if you continue employment past the ninety-day choice period without making a choice.

(d) You may exercise choice rights only once.

(4) Do I have "choice rights"?

(a) You have choice rights if your initial PERS membership began on or after March 1, 2002, with a Phase 1 employer in an eligible position.

(i) If you separate from employment and did not exercise your choice rights, you retain choice rights if you are reemployed in an eligible position with a Phase 1 employer.

(ii) If you separate from employment and did not exercise your choice rights, and you are not employed by a Phase 2 employer during Phase 2, you retain choice rights if you begin another period of employment in an eligible position with a Phase 2 employer after May 31, 2003.

(b) You have choice rights if your initial PERS membership began on or after September 1, 2002, with a Phase 2 employer in an eligible position. If you separate from employment and did not exercise your choice rights, you retain choice rights if you begin another period of employment in an eligible position with a Phase 1 or Phase 2 employer.

(5) What are "transfer rights" and how are they applied? "Transfer rights" refers to your right as a Plan 2 member to transfer into Plan 3 during an applicable transfer period to your employment type.

(a) You are not required to exercise transfer rights. If you have transfer rights, you will remain in Plan 2 unless you decide to transfer to Plan 3.

(b) If you do not transfer to Plan 3 during the Phase 1 or the Phase 2 transfer periods, you will not qualify to receive the additional transfer payment under RCW 41.40.795 or retroactive gainsharing payment under RCW 41.31A.040.

(6) Do I have transfer rights?

(a) You have transfer rights if you:

(i) Are a Plan 2 member;

(ii) Are employed in an eligible position by a Phase 1 employer during the Phase 1 transfer period; and

(iii) Were not eligible for choice rights under subsection (4)(a) of this section.

(b) You have transfer rights if you:

(i) Are a Plan 2 member;

(ii) Are employed in an eligible position by a Phase 2 employer during the Phase 2 transfer period; and

(iii) Were not eligible for choice rights under subsection (4)(b) of this section.

(7) What are "January transfer rights" and how are they applied? "January transfer rights" refers to a Plan 2 member's right to transfer to Plan 3 during any January after the close of a transfer period.

(a) If you are employed by a Phase 1 employer, in an eligible position, the first January you can transfer is January 2003:

(b) If you are employed by a Phase 2 employer, in an eligible position, the first January you can transfer is January 2004.

(c) You must earn service credit in the January in which you transfer.

(8) Do I have January transfer rights?

(a) You have January transfer rights if you were eligible for transfer rights and did not transfer to PERS Plan 3 during the transfer period that applied to you.

(b) You have January transfer rights if you:

(i) Were employed in an eligible position with a Phase 1 employer **before** the Phase 1 transfer period, or were employed in an eligible position by a Phase 2 employer **before** the Phase 2 transfer period;

(ii) Were not employed by a Phase 1 employer **during** the Phase 1 transfer period;

(iii) Were not employed by a Phase 2 employer **during** the Phase 2 transfer period; and

(iv) Are employed by a Phase 1 employer in an eligible position that you began **after** the Phase 1 transfer period ended, or are employed by a Phase 2 employer in an eligible position that you began **after** the Phase 2 transfer period ended.

(9) What happens after I become a Plan 3 member?

Once you choose Plan 3 or default to Plan 3 or transfer to Plan 3, you will remain a Plan 3 member. You will not have any additional transfer rights or choice rights to exercise.

(10) What rules apply to me if I am concurrently employed? If you are, or become concurrently employed during the Phase 1 transfer period in an eligible position, you will have transfer rights but must wait until the Phase 2 transfer period to transfer. If you separate from one of the employers, your membership rights must be reevaluated.

Examples: *The examples are written, for the most part, for a Phase 1 employer. Use the Phase 2 transfer period (September 1, 2002, through and including May 31, 2003) to apply the rules to a Phase 2 employer.*

Plan Choice Rights:
Example 1: Pat starts working for a state agency in an eligible position (Phase 1 employer) as of:
A. April 1, 2002. Since Pat has not previously been a member of PERS, Pat has ninety days to make a plan choice for Plan 2 or Plan 3. See subsection (3)(b) of this section.
B. After forty-five days, Pat leaves service without making a choice, and then returns in an eligible position one year later. Pat has a new ninety day period in which to make his plan choice . See subsection (4)(a)(i) of this section.
C. Pat chooses Plan 3 within his ninety days. Pat is now a Plan 3 member regardless of future employment. See subsection (9) of this section.
D. Instead of choosing Plan 3, Pat lets his ninety day plan choice period go by with out choosing Plan 2 or Plan 3. Pat is defaulted into Plan 3 and is now a Plan 3 member regardless of future employment. See subsections (3)(c) and (9) of this section.

Transfer Rights:
Example 2:
A. Chris has been a Plan 2 member since 1977. Chris is working at a state agency (Phase 1 employer) as of March 1, 2002. Since Chris was a member prior to the start of Plan 3, Chris has the right to transfer to Plan 3 in the transfer period (March 1, 2002, through August 31, 2002). See subsection (6)(a) of this section.

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B. However, Chris did not make a decision to transfer prior to the close of the Phase 1 transfer period. If Chris remains employed for a Phase 1 employer, the right to transfer to Plan 3 is limited to January of each year. See subsection (8)(a) of this section.

C. In this variation, Chris was a Plan 2 member from March 1, 1987, through February 1, 2002. Chris returns on October 15, 2002, for a state agency (Phase 1 employer). Since Chris returned to service after the transfer period (March 1, 2002, through August 31, 2002), Chris only has the right to transfer to Plan 3 in January of each year. See subsection (8)(b) of this section.

Irrevocable Choice Rule:

Example 3: Mike starts working for a state agency (Phase 1 employer) as of April 1, 2002. Since Mike has not previously been a member of PERS, he has ninety days to make a plan choice for Plan 2 or Plan 3. Mike chooses Plan 3 within his ninety days. Mike is now a Plan 3 member regardless of future employment. See subsection (9) of this section.

Example 4: Pat starts working for a state agency (Phase 1 employer) as of April 1, 2002. Since Pat has not previously been a member of PERS, he has ninety days to make a plan choice for Plan 2 or Plan 3. Pat chooses Plan 2 within his ninety days. Pat is now a Plan 2 member who can no longer have a plan choice regardless of future employment. See subsection (3)(d) of this section.

Concurrent Employment in Phase 1 and 2:

Example 5: Using example 2A, Chris also accepts employment for a county (Phase 2 employer) on April 1, 2002, prior to transferring to Plan 3. Since Chris is concurrently employed at a Phase 1 and a Phase 2 employer, Chris must wait for the Phase 2 window before he can transfer to Plan 3. See subsection (10) of this section.

NEW SECTION

WAC 415-108-980 Will I receive a transfer payment when I transfer to Plan 3? (1) PERS Plan 3 will be implemented on March 1, 2002. If you transfer from PERS Plan 2 to PERS Plan 3 during your transfer period, and establish any service credit in February 2003, you will receive a transfer payment to be added to your member account on or after June 1, 2003, once the department receives the transfer information from your employer. The transfer period and payment amount you will receive is based upon your employer type and your account balance as of March 1, 2002.

(a) You will receive a payment of one hundred and ten percent of your transfer basis if you are employed in an eligible position by a Phase 1 employer and you transfer to Plan 3 during the Phase 1 transfer period. State agencies and institutes of higher education are Phase 1 employers.

(b) You will receive a payment of one hundred and eleven percent of your transfer basis if you are employed in an eligible position by a Phase 2 employer and you transfer to Plan 3 during the Phase 2 transfer period. All other employers are Phase 2 employers.

(2) Your transfer basis is your total accumulated contributions (and interest) on March 1, 2002, less fifty percent of any contributions you made under RCW 41.50.165(2).

(3) If you request to transfer but die before payment is made, the transfer payment will be paid immediately to your defined contribution account. These moneys will be distributed when payment is made from your account to your estate,

or the person or persons, trust or organization you nominated by the most recent written beneficiary designation filed with the department.

Examples:

Phase 1 Employer (110%) (state agencies and institutes of higher education)

- Al works for a Phase 1 employer and makes \$2,000 a month.
- On March 1, 2002, Al's defined benefit (DB) account balance is \$10,000.
- On June 1, 2002, Al transfers to PERS Plan 3 and chooses contribution rate option A (5%).
- On June 1, 2002, the department transfers approximately \$10,185 to Al's new defined contribution (DC) account. The transfer amount is the sum of:
 - ◆ Al's \$10,000 account balance on March 1, 2002;
 - ◆ Approximately \$50 in contributions between March 1st and June 1st; and
 - ◆ Approximately \$135 in interest in Plan 2 at 5.5% annually, compounded quarterly.
- Al continues working for his Phase 1 employer through June 2003, including the month of February.
- In June 2003, after he receives his transfer payment, Al will have approximately **\$22,385** in his DC account. Here is how:
 - ◆ In June 2002, when Al transferred to Plan 3, he started with approximately \$10,185 in his DC account.
 - ◆ He then made twelve monthly contributions of \$100 (5% of a \$2,000 salary, June 2002 through May 2003) for a total of \$1,200.
 - ◆ In June 2003, he receives a transfer payment of \$11,000 (110% of \$10,000, his account balance on March 1, 2001).
 - ◆ The total is approximate because it will depend on earnings or losses on the investments of the original amount transferred the previous year, and the contributions made to date.

Phase 2 Employer (111%) (local government)

- Peggy works for a Phase 2 employer and makes \$2,000 a month.
- On March 1, 2002, Peggy's defined benefit (DB) account balance is \$10,000.
- On November 1, 2002, Peggy transfers to PERS Plan 3 and chooses contribution rate option A (5%).
- On November 1, 2002, the department transfers approximately \$10,560 to Peggy's new defined contribution (DC) account. The transfer amount is the sum of:
 - ◆ Peggy's \$10,000 account balance on March 1, 2002;
 - ◆ Approximately \$140 in contributions between March 1st and November 1st;
 - ◆ Approximately \$420 in interest in Plan 2 at 5.50% annually, compounded quarterly.
- Peggy continues working for her Phase 2 employer through June 2003, including the month of February.
- In June 2003, after she receives her transfer payment, Peggy will have approximately **\$22,360** in her DC account. Here is how:

◆ In November 2002, when Peggy transferred to Plan 3, she started with approximately \$10,560 in her DC account.

◆ She then made monthly contributions of \$100 (5% of a \$2,000 salary) for a total of \$700.

◆ In June 2003, she receives a transfer payment of \$11,100 (111% of \$10,000, her account balance on March 1, 2001).

◆ The total is approximate because it will depend on earnings or losses on the investments of the original amount transferred the previous year, and the contributions made to date.

(4) Terms defined:

Phase 1 transfer period: WAC 415-108-420.

Phase 2 transfer period: WAC 415-108-420.

Service: RCW 41.40.010 (9)(b).

Transfer basis: RCW 41.40.795 (1)(b).

Transfer period: RCW 41.40.795 (1)(a).

AMENDATORY SECTION (Amending WSR 98-09-059, filed 4/17/98, effective 5/18/98)

WAC 415-108-445 What compensation can be reported? ((In order for payments to be subject to retirement system contributions and included in the calculation of a member's retirement benefit, those payments must meet the definition of compensation earnable in RCW 41.40.010(8).

~~(1) Payments for personal services rendered.~~ To determine whether a payment meets this definition and can be reported, ask the following questions:

~~(a) Was the payment earned as a salary or wage for personal services rendered during a fiscal year? If the answer is no, the payment is not reportable. If the answer is yes, ask question (b).~~

~~(b) Was the payment paid by an employer to an employee? If the answer is no, the payment is not reportable. If the answer is yes, report the payment.~~

~~(2) Payments included that are not for personal services rendered.~~ The legislature has included certain specific payments within the definition of compensation earnable even though those payments are not for personal services rendered by the employee to the employer. (See WAC 415-108-464 through 415-108-469.)

~~(3) Reportable compensation is earned when the service is rendered, rather than when payment is made.~~

Example: If a member works during June but does not receive payment for the work until July, the reportable compensation was earned during June and must be reported to the department as June earnings.

~~(4) Salary characterizations are based upon the nature of the payment.~~ A payment is reportable compensation if it meets the criteria of subsection (1) or (2) of this section. The name given to the payment or the document authorizing it is not controlling in determining whether the payment is reportable compensation. The department determines

whether a payment is reportable compensation by considering:

(a) What the payment is for; and

(b) Whether the reason for the payment brings it within the statutory definition of compensation earnable.

Example: A payment conditioned upon retirement is not reportable compensation. Attaching the label "longevity" to the payment does not change the fact that the payment is conditioned on retirement. Such a payment is not for services rendered and will not be counted as reportable compensation despite being identified by the employer as a longevity payment.

~~(5) Differences in reportable compensation between plans.~~ WAC 415-108-445 through 415-108-488 define reportable compensation for each of the two PERS plans. "Compensation earnable" is defined in very similar terms for both PERS Plan I and PERS Plan II. The characterization of payments as reportable compensation or not reportable compensation in WAC 415-108-455 through 415-108-488 is the same for both PERS Plan I and PERS Plan II except as specifically noted.) **(1) Compensation earnable:**

(a) Compensation earnable must meet the definition in RCW 41.40.010(8) and:

(i) Be earned as a salary or wage for personal services provided during a fiscal year and paid by an employer to an employee; or

(ii) Qualify as compensation earnable under WAC 415-108-464 through 415-108-470.

(b) The department determines whether payments to an employee are compensation earnable based on the nature, not the name, of the payment. The department considers the reason for the payment and whether the reason brings the payment within the statutory definition of compensation earnable.

Example: "Longevity pay" conditioned on retirement is not for services provided and is therefore not compensation earnable.

(c) "Compensation earnable" is defined in very similar terms for all three PERS plans. Any differences among plans are specifically noted in WAC 415-108-443 through 415-108-488.

(2) Reportable compensation:

(a) Reportable compensation is the compensation paid by an employer to an employee that the employer must report to the department.

(b) An employer must report all compensation earnable of an employee, as defined by RCW 41.40.010(8) and WAC 415-108-445(1) to the department.

(c) An employer must report compensation for the month in which it was earned. Compensation is earned when the service is provided, rather than when payment is made.

Example: A member is paid in July for work performed during June. The employer must report the compensation to the department as "June earnings."

AMENDATORY SECTION (Amending WSR 98-09-059, filed 4/17/98, effective 5/18/98)

WAC 415-108-466 Do I receive reportable compensation for union leave(s)? If ~~((a member))~~ you take(s) an authorized leave of absence to serve as an elected official of a labor organization and ~~((the))~~ your employer pays ~~((the member))~~ you while you are on leave subject to reimbursement from the union, ~~((the person's))~~ your pay qualifies as reportable compensation provided that all the conditions of RCW 41.40.175 (Plan ~~((F))~~ 1) ~~((or))~~, RCW 41.40.710 (Plan ~~((H))~~ 2), or RCW 41.40.805 (Plan 3) as appropriate, are met.

AMENDATORY SECTION (Amending WSR 95-22-006, filed 10/18/95, effective 11/18/95)

WAC 415-108-480 Vehicles—Does the value of my use of an employer vehicle qualify as compensation earnable? ~~((1))~~ **PERS Plan I members:**

~~(a) If you use an employer vehicle solely in connection with your employer's business, your use of the vehicle does not qualify as compensation earnable. Use of an employer provided vehicle only qualifies as compensation earnable to the extent that you use it for personal, rather than business, purposes. Your use of an employer vehicle does not qualify as compensation earnable if:~~

- ~~(i) You use the vehicle solely in connection with your employer's business; or~~
- ~~(ii) Your employer has an established policy prohibiting you from using the vehicle for any purpose other than in connection with your employer's business.~~

~~(b) The department presumes that any employer provided vehicle is used solely in connection with your employer's business and does not qualify as compensation earnable.~~

~~(c) A portion of your use of an employer provided vehicle may qualify as compensation earnable. In order for any portion of your use of an employer vehicle to qualify as compensation earnable, your employer must either:~~

- ~~(i) Report your personal use of the vehicle to the Internal Revenue Service (IRS) as income; or~~
- ~~(ii) Maintain monthly records reflecting your personal use of the vehicle.~~

~~(d) Your personal use of an employer vehicle qualifies as compensation earnable if your employer reports your use to the IRS as taxable income. Your employer may report your personal use of an employer vehicle to the Internal Revenue Service (IRS) as taxable income as provided under the Internal Revenue Code (I.R.C.). See I.R.C. Section 61 and Treas. Reg. Section 1.61-21. If so, the department will consider the amount reported to the IRS as compensation earnable.~~

~~(e) Your personal use of an employer vehicle qualifies as compensation earnable to the extent your employer documents your personal use of the vehicle. If your employer does not report your use of an employer vehicle to the IRS as income, your use of the vehicle may qualify as compensation earnable if your employer maintains monthly~~

~~contemporaneous records detailing your personal use of the vehicle. Your employer records must reflect all of the following:~~

- ~~(i) Whether your employer authorized you to have the vehicle for personal use, including commuting;~~
- ~~(ii) Whether you used the vehicle for commuting and, if so, the distance you normally commuted on a daily basis during the month;~~
- ~~(iii) The dates, if any, on which you used the vehicle for other personal purposes, including the miles you drove the vehicle on each personal trip and your itinerary for each trip;~~
- ~~(iv) The total number of miles you drove the vehicle during the month; and~~
- ~~(v) The percentage of the total miles you drove the car during the month for personal use, including commuting.~~

~~(f) Your employer must report as compensation earnable an amount based on your personal use of the vehicle. If your employer maintains records documenting your personal use of the vehicle as provided in (e) of this subsection, your employer must report to the department as monthly compensation earnable the lesser of the following amounts:~~

- ~~(i) Monthly Fair Market Lease Value of the Vehicle
*
Percentage of Personal Use of the Vehicle During the Month;~~
- ~~(ii) Miles of Personal Use
*
IRS Mileage Rate~~

~~"IRS mileage rate" means the mileage rate adopted by the Internal Revenue Service for use by taxpayers in computing the value of the use of a vehicle.))~~ (1) PERS Plan I members:

(a) Use of an employer vehicle for business purposes does not qualify as compensation earnable. If your employer's established policy prohibits the use of an employer vehicle for nonbusiness uses, all use of the vehicle will be deemed business use.

(b) Use of an employer vehicle for nonbusiness purposes qualifies as compensation earnable if:

- (i) Your employer reports your personal use of the vehicle to the IRS as taxable income under IRC Section 61 and Treas. Reg. Section 1.61-21; or
- (ii) Your employer maintains monthly records of your personal use. These records must contain:

- (A) Your employer's authorization of your personal use;
- (B) The distance normally commuted each day during the month, if you use the vehicle to commute;
- (C) The dates, mileage, and itinerary of each personal trip other than a commute trip;
- (D) Your total mileage for the month; and
- (E) The ratio of personal mileage to total mileage, expressed as a percent.

(c) The department presumes that your use of an employer vehicle is solely for business purposes. If you used an employer vehicle for personal use, your employer must

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report the value of this use as compensation earnable on a monthly basis. Monthly compensation earnable is the lesser of the following:

(i) Fair Market Lease Value x Percentage of Personal Use

(ii) Miles of Personal Use x IRS Mileage Rate.

The IRS Mileage Rate is the mileage rate adopted by the Internal Revenue Service for use by taxpayers in computing the value of the use of a vehicle.

(2) **PERS Plan ((H)) 2 and 3 members.** If you are a ((PERS Plan H)) member of PERS Plan 2 or 3, you are not entitled to count any of the value of an employer-provided vehicle as compensation earnable.

AMENDATORY SECTION (Amending WSR 95-16-053, filed 7/25/95, effective 8/25/95)

WAC 415-108-679 Purpose and scope of eligibility rules. WAC 415-108-680 through 415-108-728 codify the department's existing interpretation of statutes ((and existing administrative practice)) regarding eligibility for membership in ((PERS Plan I and Plan II. The department has applied and will apply these rules to determine eligibility for service occurring prior to effective dates of these sections)) all three PERS plans.

AMENDATORY SECTION (Amending WSR 98-09-059, filed 4/17/98, effective 5/18/98)

WAC 415-108-491 Salary imputed to periods of unpaid leave. In some circumstances specified in statute, a member may ((elect)) choose to establish service credit for periods of unpaid leave. The salary imputed to a member for purposes of calculating contributions owing for such periods of leave is not reportable compensation. Depending on the type of leave, the imputed compensation may or may not be included as average final compensation in calculating a member's retirement allowance.

(1) **Authorized unpaid leave.** RCW 41.40.710 provides Plan ((H)) 2 members with an option to establish service credit for periods of unpaid leave. RCW 41.40.805 provides Plan 3 members with an option to establish service credit for periods of unpaid leave. RCW 41.40.038 provides members with an option to establish service credit for periods of disability covered by industrial insurance. Salary imputed to members in order to calculate contributions for such periods is not reportable compensation and can not be included as average final compensation in calculating a member's retirement allowance.

(2) **Military leave.** For Plan 2 and Plan 3, salary imputed to a member for purposes of calculating contributions owing for periods of interrupted military service is not reportable compensation. Federal law requires that if a member ((elects)) chooses to purchase credit for such periods of military service, and that period falls in the member's average final compensation period, the member is entitled to have the imputed salary he or she would have earned during the period of absence used in the calculation of his or her average final compensation.

AMENDATORY SECTION (Amending WSR 94-12-014, filed 5/23/94, effective 6/23/94)

WAC 415-108-570 ((Elected and appointed officials—)) As an elected or appointed official, what are my requirements for service credit((s))? (1)(a) ((Plan I)) As a Plan 1 elected ((officials and)) or appointed official((s)), you may receive one month of service credit for each month during which ((they)) you earn compensation pursuant to ((their)) your elected or appointed position((s)).

(b) ((Plan I)) If you are a Plan 1 member((s)) who ((were)) was appointed by the governor prior to July 1, 1976, to serve as a member((s)) of any committee, board or commission, you may receive one month of service credit for each month during which ((they)) you earn compensation pursuant to ((their)) your appointed positions.

(c) ((Plan I)) If you are a Plan 1 member((s)) who ((were)) was appointed or reappointed by the governor on or after July 1, 1976, to serve as a member((s)) of any committee, board or commission, you may receive one month of service credit for each month during which ((they)) you are compensated for at least seventy total hours of work.

(d) ((Plan I)) If you are a Plan 1 member((s)) who ((serve)) served in a governor-appointed position((s)) as a member((s)) of any committee, board or commission on or after September 1, 1991, you may receive one-quarter month of service credit for each month during which ((they)) you are compensated for less than seventy total hours of work.

(2)(a) ((Plan II)) If you are a Plan 2 or Plan 3 member((s)) who ((were)) was elected to office by statewide election, you may receive one month of service credit for each month during which ((they)) you earn compensation pursuant to ((their)) your elected position((s)).

(b) Except for Plan ((H)) 2 or Plan 3 elected officials covered under (a) of this subsection, ((Plan II members who were)) if you are elected to office or appointed by the governor to a position((s)) prior to September 1, 1991, you may receive service credit only for months during which ((they)) you are compensated:

(i) In excess of ninety times the state hourly minimum wage in effect at the time ((they render)) you provide the service; and

(ii) For ninety or more total hours of work.

(c) On or after September 1, 1991, except for Plan ((H)) 2 or Plan 3 elected officials covered under (a) of this subsection, ((Plan II members who)) if you were elected to office or appointed by the governor to a position((s)), you may earn:

(i) One month of service credit for each month during which ((they)) you are compensated:

(A) For ninety or more total hours of work; and

(B) In excess of ninety times the state hourly minimum wage in effect at the time ((they render)) you provide the service; or

(ii) One-half month of service credit for each month during which ((they)) you are compensated:

(A) For less than ninety hours but equal to or more than seventy total hours of work; and

(B) In excess of ninety times the state hourly minimum wage in effect at the time ((they render)) you provide the service; or

(iii) One-quarter month of service credit for each month during which ~~((they))~~ you are compensated:

(A) For less than seventy total hours of work; and

(B) In excess of ninety times the state hourly minimum wage in effect at the time ~~((they render))~~ you provide the service.

(3) This section codifies the department's long-standing administrative practice in relation to elected and appointed officials. The department will apply this section to service by elected and appointed officials which occurred prior to the effective date of this section.

AMENDATORY SECTION (Amending WSR 93-11-077, filed 5/18/93, effective 6/18/93)

WAC 415-108-640 Effect of meeting union verification requirements. (1) Plan ~~((I))~~ 1 union employer status applies only to the level of union organization that meets the requirements of WAC 415-108-620(1). Therefore, if only a single union lodge of a union with multiple lodges has been verified to meet the requirements of WAC 415-108-620(1), only that union lodge is a Plan ~~((I))~~ 1 union employer.

(2) ~~((Plan I union employers employing persons who have previously established Plan I membership must report those persons for participation in the retirement system if those persons opt into membership under RCW 41.40.023.))~~ Plan 1 members who are employed by union employers shall have an irrevocable option to reenter membership. You lose this option if you do not reenter PERS Plan 1 when you begin working in an eligible position with the union employer. The union employer must notify you, as its new employee, of the option to reenter Plan 1. Failure of the union employer to notify you shall not prevent your loss of the right to participate in Plan 1 under this section. Union employers and their Plan 1 employees who choose to reenter membership will be subject to the same statutory and regulatory requirements as other Plan 1 nonstate agency employers and employees.

(3) ~~((Plan I members who are employed by union employers shall have an irrevocable election to reenter membership. If this option is not exercised when the employee first enters an eligible position with the union employer, it is waived. The union employer has the duty to notify new employees of the option to enter Plan I. Failure of the union employer to provide notification shall not obviate a person's waiver of the right to participate in Plan I under this section. Union employers and their Plan I employees who opt into membership will be subject to the same statutory and regulatory requirements as other Plan I nonstate agency employers and employees.))~~ Plan 1 union employers employing persons who have previously established Plan 1 membership must report you for participation in the retirement system if you choose to reenter membership under RCW 41.40.023.

(4) Union employers shall ~~((either))~~ have all new employees state on a written form ~~((from all new employees))~~ whether ~~((the employee has))~~ they have ever been a Plan ~~((I))~~ 1 member.

(5) ~~((A union employer may not report employees for participation in Plan II.~~

~~((6))~~(a) Upon first establishing union employer status the union must pay the ~~((prior service liability))~~ required retroac-

tive contributions and interest as determined by the department under RCW 41.40.363 or ~~((41.40.045))~~ 41.40.057, as applicable for union elective officials and employees who ~~((opt into membership))~~ choose to become a member under RCW 41.40.023 and are eligible for Plan ~~((I))~~ 1.

(b) If employer and employee contributions have been ~~((erroneously))~~ submitted in error and the union subsequently establishes retroactive union employer status for the period in question, the contributions on deposit with the retirement system will be considered ~~((ratified))~~ valid to the extent that the periods of erroneous contributions coincide with periods for which the union has established union employer status.

~~((7))~~ (6) Notwithstanding any provisions of WAC 415-108-620 Plan ~~((I))~~ 1 retirees who enter into employment with a union employer in an eligible position are subject to the provisions of RCW 41.40.150 (5)(a).

(7) A union employer may not report employees for participation in Plan 2 or Plan 3.

AMENDATORY SECTION (Amending WSR 95-16-053, filed 7/25/95, effective 8/25/95)

WAC 415-108-690 How is my membership eligibility evaluated? (1) Your eligibility to participate as a member of PERS is based on your position.

In evaluating whether your position is eligible for membership, your employer will determine only whether the position meets the criteria of an eligible position under RCW 41.40.010(25) and WAC 415-108-680(1). Your employer will not consider your membership status or individual circumstances unless you:

(a) Leave employment in an eligible position to serve in a project position (See WAC 415-108-680(2)); or

(b) Work in both a PERS and TRS position during the same school year (See WAC 415-108-728).

(2) Your employer will evaluate your position's eligibility for a particular year at the beginning of the year. This is normally a calendar year unless your employer has determined and supports a different twelve-month period for its year.

(3) Your employer or the department may reclassify your position's eligibility based upon your actual work history. If your employer declares your position to be ineligible at the beginning of a year and by the end of the year, you have actually worked five or more months of seventy or more hours, your employer will, at that time, review your position's eligibility. If at the end of the first year:

(a) Your employer believes your position meets the requirements for an eligible position and declares the position as eligible, you will enter membership and your employer will report you to the department effective from the date your employer declares the position as eligible; or

(b) Your employer believes that the position will not meet the criteria for an eligible position during the next year, your employer may continue to define your position as ineligible. However, if during the next year the position actually requires you to again work seventy or more hours each month for at least five months, the department will declare your

position as eligible. You will enter membership in the retirement system.

(i) Except as provided in (b)(ii) of this subsection, your employer will report you to the department effective from the first month of the first year in which your position required you to work for seventy or more hours.

(ii) If:

(A) Your employer has monitored the work history of your position for PERS eligibility;

(B) Has notified you in writing when you entered the position that the position was not considered eligible; and

(C) The months of employment in a twelve-month period required by the position are determined by the occurrence or nonoccurrence of natural disasters such as forest fires;

You will enter membership prospectively.

(4) **The department will not reclassify your position's eligibility until history of the position shows that it meets the criteria for an eligible or ineligible position.**

(a) If your employer has declared your position ineligible, the department will not reclassify your position as eligible until history of the position shows a period of two consecutive years of at least five months of seventy or more hours of compensated employment each month.

(b) If your employer has declared your position ineligible, the position must continue to fail to meet the requirements of an eligible position or reclassification of your position will occur as stated in subsection (3)(b) of this section.

(5) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Eligible position" - RCW 41.40.010.

(b) "Employer" - RCW 41.40.010.

(c) "Ineligible position" - RCW 41.40.010.

(d) "Membership" - RCW 41.40.023.

(e) "Project position" - WAC (~~(415-108-0103)~~) 415-108-010.

(f) "Report" - WAC (~~(415-108-0104)~~) 415-108-010.

(g) "Year" - WAC (~~(415-108-0108)~~) 415-108-010.

AMENDATORY SECTION (Amending WSR 95-16-053, filed 7/25/95, effective 8/25/95)

WAC 415-108-720 Participation—Can I be excluded from participating in membership even if I am employed in an eligible position? (1) **You may be exempt from participating in membership even if you meet eligibility criteria.** Even if you are employed in an eligible position you are exempt from participating in PERS if your individual circumstances qualify you for one of the exceptions to membership under RCW 41.40.023.

(2) **If you work for a PERS employer after you retire, you are subject to post-retirement employment restrictions even if you are excluded from participating in membership.** If you become employed in an eligible position after you retire, you are subject to the post-retirement employment restrictions under RCW 41.40.150, 41.40.690, and (~~41.40.690~~) 41.40.850 even if you are excluded from membership.

(3) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Eligible position" - RCW 41.40.010.

(b) "Employer" - RCW 41.40.010.

(c) "Ineligible position" - RCW 41.40.010.

(d) "Membership" - RCW 41.40.023.

AMENDATORY SECTION (Amending WSR 97-19-035, filed 9/9/97, effective 9/9/97)

WAC 415-108-830 Actuarial recomputation of a Plan 2 or Plan 3 retirement allowance upon retirement following reemployment. (1) ~~(The purpose of)~~ This rule ~~(is to)~~ establishes a method to actuarially recompute the retirement allowance of a Plan ~~(H)~~ 2 or Plan 3 member who retires, reenters employment causing ~~(his or her)~~ the retirement allowance to be suspended, and then retires again. The actuarially recomputed retirement allowance shall:

(a) Include service credit the member earned following reestablishment of membership if any; and

(b) Account for the actuarial reduction applied to the member's initial retirement if the member initially retired prior to age sixty-five.

(2) If a Plan ~~(H)~~ 2 or Plan 3 retiree reenters membership, upon the individual's next retirement, the department shall reinstate and actuarially recompute the individual's retirement allowance pursuant to RCW 41.40.690 as follows:

(a) If the member first retired before age sixty-five, the department shall:

(i) Calculate the retirement allowance pursuant to RCW 41.40.620 using the retiree's total years of career service, including service earned prior to initial retirement and service earned after reentering membership;

(ii) Actuarially reduce the member's retirement allowance based on the present value of the retirement allowance payments the individual received during the initial retirement; and

(iii) Calculate any survivor option selected by the retiree based upon the monthly retirement allowance calculated pursuant to (a)(i) and (ii) of this subsection.

(b) If the member initially retired at or after age sixty-five, the department shall recompute the member's retirement allowance pursuant to RCW 41.40.620 and include any additional service credit earned and any applicable increase in the member's average final compensation resulting from the member's reentry into membership. Under no circumstances shall a retiree receive a retirement allowance creditable to a month during which that individual earned service credit.

(3) If a Plan 2 or Plan 3 retiree's retirement allowance is suspended under RCW 41.40.690 or RCW 41.40.850 due to reemployment but the retiree does not reenter membership, upon the retiree's separation from such employment, the retiree shall receive an actuarially recomputed retirement allowance equal to the sum of:

(a) The amount of the monthly suspended retirement allowance; plus

(b) An actuarially computed increase based upon the retirement allowance payments the member did not receive

due to reemployment. The retiree may elect to receive the actuarially computed increase in either:

- (i) An amount amortized over the expected term of the recomputed retirement allowance; or
- (ii) A lump sum payment equal to the suspended retirement allowance plus interest.

NEW SECTION

WAC 415-108-727 Can I transfer service credit earned as a cadet in the public employees' retirement system to the Washington state patrol retirement system? (1) A Plan 1 or Plan 2 member may transfer cadet service under RCW 41.40.092.

(2) A person who becomes a PERS Plan 3 member cannot transfer service credit earned as a cadet in PERS, regardless of when the credit was earned.

NEW SECTION

WAC 415-108-815 What is the minimum dollar limit used to determine a Plan 3 lump sum benefit payment?

(1) The minimum dollar limit under RCW 41.40.815 for determining if a lump sum payment may be received instead of a monthly benefit is increased to \$119.41 as of March 1, 2002.

(2) The limit established in subsection (1) of this section will be increased each January 1st by three percent beginning January 1, 2003.

NEW SECTION

WAC 415-110-815 What is the minimum dollar limit used to determine a Plan 3 lump sum benefit payment?

(1) The minimum dollar limit under RCW 41.35.670 for determining if a lump sum payment may be received instead of a monthly benefit is increased to \$119.41 as of March 1, 2002.

(2) The limit established in subsection (1) of this section will be increased each January 1st by three percent beginning January 1, 2003.

AMENDATORY SECTION (Amending WSR 01-01-059, filed 12/12/00, effective 1/12/01)

WAC 415-110-910 Conversion of service from PERS to SERS. (1) You will be converted from ((PERS to SERS)) the public employees' retirement system (PERS) to the school employees' retirement system (SERS) if:

(a) You were employed with a school district or educational service district in an eligible position as of September 1, 2000;

(b) You participated and then separated in PERS prior to September 1, 2000, and became reemployed in an eligible position at a school district or educational service district after September 1, 2000;

(c) You are a participating member in PERS and move to a SERS employer after September 1, 2000;

(d) You retired out of PERS Plan 2 and:

(i) Returned to PERS covered employment and became an active PERS ((membership)) member; and

(ii) Were a member as of September 1, 2000, at a school district or educational service district; or

((e)) (e) You retired out of PERS Plan 2 and:

(i) Returned to PERS covered employment and became an active PERS ((membership)) member;

(ii) Separated from your PERS position; and

(iii) Become employed in an eligible SERS position prior to applying for retirement in PERS.

(2) **What happens to my existing PERS service and account history when I am converted from PERS to SERS membership?** All of your PERS service and account history with any PERS employer will be moved to SERS.

(3) **How many times will my PERS service be moved to SERS?** Your PERS service shall be moved to SERS only once pursuant to subsection (1) of this section. After you have been converted from PERS to SERS, subsequent reenrollment(s) into SERS shall not cause any additional conversions of any PERS service. Any future eligible employment in PERS shall be reported into PERS and any future eligible employment in SERS shall be reported into SERS.

Example: Employed in PERS prior to conversion. Joe has 15 years of service in PERS. He has been employed by a school district for the last 5 years. Joe previously was employed by a county for 10 years.

Conversion from PERS to SERS. Since Joe is employed with the school district on September 1, 2000, his PERS service is moved to SERS service. Both his 5 years of service with the school district and his 10 years of service with the county are moved to SERS. Joe's PERS account now has zero service credit and contributions; Joe's SERS account now has 15 years of service credit and contributions.

Return to PERS service. After another year of service with the school district, Joe separates employment with 16 years of credit in SERS and returns to employment with the county. Joe's 16 years of service remains in SERS and he begins to accrue service in PERS, starting from zero, for his new employment with the county.

Return to SERS employment. Joe works for the county for 5 years. He now has 5 years of service credit in PERS and he still has 16 years of service credit in SERS. Joe separates employment from the county and goes back to work in a SERS covered position with an educational service district. Joe's PERS employer will stop reporting him and the educational service district will begin reporting Joe into SERS. He will begin accumulating service in SERS starting at 16 years. The 5 years of service that Joe rendered at the county stays in PERS.

(4) **If I am a PERS Plan 2 retiree and become employed in an eligible SERS position, will my service be converted from PERS to SERS?** Except as allowed in sub-

section (1)(~~(e)~~) (d) and (~~(d)~~) (e) of this section, a PERS Plan 2 retiree will not have any of (~~(their)~~) his or her service, account or retirement history converted to SERS.

AMENDATORY SECTION (Amending WSR 01-01-059, filed 12/12/00, effective 1/12/01)

WAC 415-111-100 (~~(Application of chapter.)~~) **To whom does this chapter apply?** This chapter applies only to members of Plan 3 retirement systems created under chapters 41.32 (TRS) (~~(and)~~), 41.35 (SERS) and 41.40 (PERS) RCW.

AMENDATORY SECTION (Amending WSR 01-01-059, filed 12/12/00, effective 1/12/01)

WAC 415-111-110 Member and employer responsibility. (1) What am I responsible for as a Plan 3 member? As a Plan 3 member your responsibilities include, but are not limited to:

- (a) Adhering to (~~(published)~~) time frames;
- (b) Making investment decisions for your defined contribution account;
- (c) Reviewing account information provided on statements, such as quarterly statements, and notifying the correct organization of any errors;
- (d) Filling out the correct form for a requested action;
- (e) Correctly completing the appropriate form for a requested action and submitting the form to the correct organization as directed on each form; and
- (f) Monitoring to ensure contributions do not exceed Internal Revenue Code limits (see WAC 415-111-111).

(2) **What can happen if I do not fulfill my Plan 3 responsibilities?** If you do not fulfill your responsibilities, the consequences may include, but are not limited to:

- (a) You may not qualify for certain benefits, such as the transfer payment;
- (b) You may have a delay in the correction of errors on your account;
- (c) You may have a delay in the processing of your request for a defined contribution withdrawal; or
- (d) You may have a delay in the investment of your account as directed.

(3) **What responsibilities do employers have?** Employers' responsibilities include, but are not limited to:

- (a) Adhering to Plan 3 administrative requirements, including the respective roles of employers and employees, communicated to employers by the department in written materials and formal training(~~(:)~~);
- (b) Maintaining a supply of Plan 3 forms;
- (c) (~~(Submitting contributions to the department as soon as possible and at least in accordance with chapter 41.50 RCW;~~)

(~~(d)~~) Reporting an employee's Plan 3 transfer (~~(election)~~) decision as soon as possible after receipt of the appropriate form from the employee;

(~~(e)~~) (d) Submitting to DRS the form on which the member made (~~(their)~~) the Plan 3 transfer (~~(election)~~) decision as soon as possible after receipt of the appropriate form;

(~~(f)~~) (e) Reporting an employee's contribution rate (~~(election)~~) decision as soon as possible after receipt of the appropriate form from the employee;

(~~(g)~~) (f) Reporting an employee's investment program (~~(election)~~) as soon as possible after receipt of the appropriate form from the employee; (~~(and)~~

(~~(h)~~) (g) Monitoring to ensure that a member's contributions do not exceed Internal Revenue Code limits (see WAC 415-111-111); and

(h) Submitting contributions to the department as soon as reasonable and at least in accordance with RCW 41.50.120, "reasonableness" will be based on the facts and circumstances.

Example

Assume the following:

- An employer has one payroll system;
- Payroll checks are issued semimonthly;
- At the same time checks are cut, the payroll department produces a data tape of employee contributions that has to be checked for accuracy, and checking the tape takes four days;
- Once the accuracy of the data tape is confirmed, a check for the aggregate amount of employee contributions is sent by the employer to DRS; and
- The entire process, from the cutting of payroll checks to the cutting of the aggregate employee contribution check takes eight days.

In this situation, eight days is a "reasonable" period of time.

(4) **What can happen if my employer does not fulfill (~~(their)~~) its responsibilities?**

(a) If your employer does not fulfill (~~(their)~~) its responsibilities, the consequences may include, but are not limited to:

- (~~(a)~~) (i) Your employer may have to make your member account whole;
- (~~(b)~~) (ii) Your employer may be subject to penalties assessed by the department; or
- (~~(e)~~) (iii) Your employer may be subject to penalties assessed by the Internal Revenue Service.

(b) If the department determines that an employer has erred in its administrative role, such that an employee incurs an investment loss, the department will determine the amount of loss and bill the employer.

NEW SECTION

WAC 415-111-400 Optional service credit purchase rules. (1) Statutory deadline dates.

(a) When you are purchasing service credit available from participation as a former member of Plan 2, you will be subject to the statutory deadline date as if you were in Plan 2. The transfer of membership from Plan 2 to Plan 3 will not change a statutory deadline date for purchasing service credit while you were a member of Plan 2.

(b) When you are a Plan 3 member purchasing Plan 3 service credit, you are not subject to a statutory deadline date.

(2) **Interest on purchase cost.** When purchasing service credit as a Plan 3 member, you will not be required to

pay interest on member contributions. When paying employer contributions, you will be required to pay interest on those contributions.

(3) Allocation of purchase money.

(a) Member contributions will be applied to your defined contribution account when paid. Paid member contributions are not refundable, except as a withdrawal of defined contributions under RCW 41.34.070 and WAC 415-111-310.

(b) Employer contributions and interest on employer contributions that you pay will be allocated to the fund described in RCW 41.50.075(3) and shall not be refundable.

AMENDATORY SECTION (Amending WSR 01-01-059, filed 12/12/00, effective 1/12/01)

WAC 415-111-310 Defined contribution (~~with- drawal~~) account distribution (~~withdrawal~~). (1) **How do I (~~withdraw~~) receive a distribution (~~withdrawal~~) of funds from my defined contribution account?** Except as otherwise allowed by RCW 41.34.070, (~~you must meet the following criteria to withdraw~~) before you can receive a distribution of funds from your defined contribution account:

(a) You must separate from all eligible employment;

(b) ~~The department must receive the notice of separation ((must be received by the department))~~ from your employer(s) through the retirement transmittal system; and

(c) You must submit the appropriate, completed form (~~for~~) requesting a defined contribution (~~withdrawal~~. Pursuant to WAC 415-111-110, you bear the responsibility for completing and submitting the form)) distribution to the department's designated recordkeeper as directed on the form. See WAC 415-111-110.

(2) **Can I still receive my defined contribution (~~with- drawal~~) distribution if I (~~return~~) have returned to work before receiving my (~~withdrawal~~) funds?** If you (~~have made a request for payment and meet all of the criteria in sub- section (1) of this section, you may~~) return to work in an eligible position (~~and still take payment of the requested defined contribution withdrawal~~) after all the criteria in sub- section (1) of this section are met, you may receive distribu- tion from your defined contribution account.

(3) What are my options for distributing my defined contribution funds? You have the following options for distributions from your Plan 3 defined contribution account. Options for both the WSIB and the SELF-directed invest- ment programs are combined where applicable.

(a) Lump sum cash distribution. In either program, you may request the entire amount of your funds in a single lump-sum payment.

(b) Direct rollover. In either program, you may have some or all of your funds rolled over to an eligible retirement plan or individual retirement account (IRA). If you choose a partial rollover, the remaining funds that were not rolled over will be distributed to you as a lump sum, unless you create a personal payment schedule under (d) of this subsection.

(c) Scheduled payments. In either program, subject to the distribution requirements of IRC section 401 (a)(9), you may request that your funds be distributed in equal payments over a specified period of time, or that a specific dollar

amount be paid on a monthly basis until the account is exhausted. You may also request equal payments over your lifetime or the lifetimes of you and your beneficiary. Sched- uled payments for the WSIB program are made monthly only. Scheduled payments for the SELF-directed program are made monthly, quarterly, semi-annually and annually. Both programs have a minimum payment requirement of one hundred dollars per month.

(d) Personalized payment plan. In either program, you may create a personalized payment plan using any part of one or more of the distribution options provided in (a), (b), and (c) of this subsection (see examples below).

(e) Annuity purchase. For the SELF-directed pro- gram only, you may request to have your funds used to pur- chase an annuity from an insurance company which pays a benefit for your lifetime or the lifetimes of you and your ben- efiary.

(4) Market fluctuations. Your defined contribution account is subject to actual investment earnings (both gains and losses). These gains or losses will be used to adjust the value of your account. The defined contribution payment plans are subject to the same market fluctuations. As a result, the funding of your selected payment plan may last longer than anticipated due to market gains, or end earlier than antic- ipated due to market losses.

EXAMPLE (WSIB - Partial rollover with payments until account exhausted):

Pat has \$10,000 in the WSIB investment program. Pat wants to rollover \$2,000 of the total to an IRA, but does not want to receive the remainder of the account in a lump sum payment as provided by the partial direct rollover option. Pat selects the personalized payment schedule option and requests to do a partial rollover of \$2,000 and receive the remaining \$8,000 in equal monthly payments until the account is exhausted.

EXAMPLE (Self - Partial rollover with payments for fixed period):

Chris has \$10,000 in the self-directed investment pro- gram. Chris wants to rollover \$3,000 of the total to an IRA, but does not want to receive the remainder of the account in a lump sum payment as provided by the partial direct rollover option. Chris selects the personalized payment schedule option and requests to do a partial rollover of \$3,000 and receive the remaining \$7,000 in quarterly payments of \$250 over the next 7 years (28 quarters).

Summary of Distribution Options	
SELF	WSIB
Lump Sum Cash Distribution Direct Rollover	Lump Sum Cash Distribution Direct Rollover
-entire account	-entire account
-partial amount	-partial amount
-remaining funds can be distributed in a lump-sum payment or by a per-sonalized payment schedule (see below).	-remaining funds can be distributed in a lump-sum payment or by a per-sonalized payment schedule (see below).
Scheduled Payments	Scheduled Payments
-equal payments	-equal payments

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-monthly, quarterly, semi-annual or annual	-monthly payments only
-specified period of time, or until the account is exhausted	-specified period of time, or until the account is exhausted
-payments can be combined life expectancy of you and a beneficiary.	-payments can be combined life expectancy of you and a beneficiary.
Annuity Purchase	Not available for WSIB program
-purchase an annuity from an insurance company	
-set up to pay benefits for your lifetime, or lifetimes of you and your beneficiary	
In addition to the above, you may set up:	In addition to the above, you may set up:
Personalized Payment Plan	Personalized Payment Plan
-customized for your needs	-customized for your needs
-available for options above.	-available for options above.

(5) Minimum required distribution. Beginning on April 1 of the calendar year following the year in which you turn age 70 1/2, you are required to withdraw a minimum amount from your defined contributions annually. If you are still working at age 70 1/2, distribution will be required to begin immediately upon retirement.

NEW SECTION

WAC 415-111-440 Gainsharing. (1) What is gainsharing?

(a) When the average of investment returns on the net assets held in the Plan 2 and 3 pension funds exceeds ten percent over a four-year period, the amount in excess of ten percent is called extraordinary gains.

(b) A portion of the extraordinary gains is paid to qualified Plan 3 members, retirees and designated survivors and is called gainsharing. The amount a person receives is calculated based on total service credit.

(c) Gainsharing payments are made in January of even-numbered years.

(d) Gainsharing is based on fiscal years (July 1 - June 30). If the retirement fund does not earn in excess of ten percent over the four-year period, there is no gainsharing payment.

(e) A gainsharing payment is credited to an investment program according to the investment allocations that you have on file. Gainsharing payments appear on your first quarter statement in even-numbered years.

(2) Are my survivors eligible for my gainshare payments if I die?

(a) If you die in-service and your surviving spouse or eligible child or children choose to receive a monthly retirement allowance, they will be eligible to receive gainsharing payments. If you do not have a surviving spouse or minor child or children, your account will no longer receive gainsharing payments.

(b) If you die as the beneficiary receiving a survivorship benefit from a death-in-service member with gainsharing

payments, your gainsharing payments will continue to your minor child or children until they reach the age of majority or die. If you do not have any minor children, your account will no longer receive gainsharing payments.

(c) If you die after retirement and you chose a survivorship benefit, the gainsharing payment will continue to your survivor. If you did not choose a survivorship benefit, your account will no longer receive gainsharing payments.

(3) What happens if I die before the first payment is made? If you have qualified for a gainsharing payment, but die prior to the payment being made, the payment will be paid to your estate, or the person or persons, trust, or organization you nominated by the most recent written designation filed with the department.

NEW SECTION

WAC 415-111-450 How does a court-ordered division of property affect my Plan 3 account? (1) The department will honor orders that provide for a property division of your retirement benefit only if the order:

(a) Is entered by a court of competent jurisdiction;

(b) Is filed with the department within ninety days of the order's entry by the court;

(c) Establishes the right of a separated or former spouse to a portion of your retirement benefit;

(d) Provides the name, address, date of birth, and Social Security number of the separated or former spouse; and

(e) Incorporates the following statutory language in RCW 41.50.670(2) in which the first paragraph pertains to your defined benefit account and the second paragraph pertains to your defined contribution account (emphasis added):

If (the obligor) receives **periodic retirement payments** as defined in RCW 41.50.500, the department of retirement systems shall pay to (the obligee) dollars from such payments or percent of such payments. If the obligor's debt is expressed as a percentage of his or her periodic retirement payment and the obligee does not have a survivorship interest in the obligor's benefit, the amount received by the obligee shall be the percentage of the periodic retirement payment that the obligor would have received had he or she selected a standard allowance.

If (the obligor) requests or has requested a **withdrawal of accumulated contributions** as defined in RCW 41.50.500, or becomes eligible for a lump sum death benefit, the department of retirement systems shall pay to (the obligee) dollars plus interest at the rate paid by the department of retirement systems on member contributions. Such interest to accrue from the date of this order's entry with the court of record.

(2) Periodic retirement payments under RCW 41.50.670(2) (paragraph 1). If the property division order requires the department to pay a portion of your "periodic retirement payments" to your separated or former spouse, the department will pay the required portion (if any) out of your periodic defined benefit payments.

(a) If you die before periodic retirement payments begin, the department's obligation to pay a portion of your periodic payments to your separated or former spouse ceases.

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(b) If your separated or former spouse dies before your periodic retirement payments begin, the department will pay you the full amount of your periodic retirement allowance.

(3) **Distribution (withdrawal) of accumulated contributions or lump sum death benefit under RCW 41.50.670(2) (paragraph 2).** If the property division order requires the department to pay a portion of a distribution of "accumulated contributions" or a portion of a "lump sum death benefit" to your spouse or former spouse, the department will pay the required portion (if any) out of your defined contribution member account, subject to the provisions in this rule.

(4) Provisions for management of accounts:

(a) When the property division order is filed with the department, the department will create a separate account and transfer the amount specified in the order from your defined contribution member account into the new account.

(b) Your separated or former spouse assumes the responsibility to manage the separate account, consistent with the requirements in subsection (6) of this section, but may not contribute to the account.

(c) You retain the responsibility to manage the funds remaining in your defined contribution account, and may continue to contribute to the account.

(d) If your separated or former spouse dies before you request a distribution, the money in the separate account will be transferred back into your defined contribution account.

(5) Distribution provisions.

(a) When you request a distribution from your defined contribution account:

(i) The money in your defined contribution account will be disbursed to you pursuant to your distribution choice.

(ii) Your separated or former spouse (if living) must begin distribution(s) from the separate account pursuant to the distribution options in WAC 415-111-310. (However, if your separated or former spouse has died prior to your request for distribution, the money in the separate account will have been transferred back into your defined contribution account under subsection (4)(d).)

(iii) If you die before the money in your defined contribution account is fully disbursed, the balance of the account will be paid to your designated beneficiary(ies).

(iv) If your separated or former spouse dies before the money in the separate account is fully disbursed, the balance of the separate account will be paid to the beneficiary(ies) designated by your separated or former spouse for the separate account.

(b) If you die before receiving a distribution from your defined contribution account:

(i) Your beneficiary(ies) must apply for the lump sum death benefit from your defined contribution account; and

(ii) The money in your defined contribution account must be paid to at least one of your designated beneficiary(ies); then

(iii) Your separated or former spouse (if living) must begin distribution(s) from the separate account pursuant to the distribution options in WAC 415-111-310. (However, if your separated or former spouse has predeceased you, the money in the separate account will have been transferred

back into your defined contribution account under subsection (4)(d).)

(6) **In managing the separate account pursuant to subsection (4)(b) of this section, your separated or former spouse may:**

(a) Transfer money between investment programs (state-managed or self-directed); and

(b) Transfer money among the investment options in the self-directed program (SELF).

(7) If you and your former spouse filed a property division order with the department while you were a member of Plan 2 and you later transfer to Plan 3, at the time of your transfer, the department will create a separate account. The department will comply with the property division order as provided in this rule.

NEW SECTION

WAC 415-111-410 Submitting a beneficiary designation for Plan 3 members. (1) **You may designate or change a beneficiary for your defined contribution account at any time.** When received by the department, the most recent beneficiary designation supercedes all prior beneficiaries and will be used for your Plan 3 defined contribution account.

(2) If you designate a beneficiary as a Plan 2 member and move to Plan 3, the Plan 2 beneficiary designation will be used as your Plan 3 defined contribution account beneficiary.

(3) The beneficiary you designate for your defined contribution account can be different from the beneficiary you designate when you apply for your defined benefit retirement.

AMENDATORY SECTION (Amending Order IV, filed 2/15/78)

WAC 415-112-250 Can I receive service credit ((allowed)) for leave with pay((r))? ((If-a)) (1) Plan ((member-is)) 1 members: If you are otherwise eligible, you will receive service credit ((shall be allowed)) for any time ((subsequent to)) on or after July 1, 1960, during which ((a member-is)) you were on official leave from ((his)) your position, provided ((he is still)) that you were listed as employed by ((his)) your employer and ((is)) were receiving compensation for the time of ((his)) your leave.

(2) Plan ((H)) 2 members: You may receive ((such)) service credit in accordance with ((chapter 295, Laws of 1977 ex. sess. as now or hereafter amended)) RCW 41.32.810(1).

(3) Plan 3 members: You may receive service credit in accordance with RCW 41.32.865(1).

AMENDATORY SECTION (Amending WSR 99-14-008, filed 6/24/99, effective 7/25/99)

WAC 415-112-400 ((Salary deductions required by employer.)) When does the employer deduct salary for retirement contributions? If the teacher or member is entitled to have salary deducted for retirement contributions, the employer must make the deductions when the teacher or member starts work.

(1) Plan 1.

(a) The employer must deduct salary for retirement contributions for a teacher who has not been a member if:

- (i) ~~((They are))~~ The teacher is employed full time (at least four-fifths of a school day or full time assignment); and
- (ii) ~~((Their))~~ The teacher's employment contract calls for at least ninety days of employment in a school year.

(b) The employer must also deduct the salary of each teacher who is a member employed full time if their employment contract calls for at least twenty days of employment in a school year.

(c) If a teacher who is not a member is employed for less than ninety days in a school year, ~~((they))~~ the teacher will fail to establish membership. The employer must refund ~~((their))~~ the teacher's salary deductions for retirement when ~~((they))~~ he or she terminates employment as a teacher. The ~~((non-member))~~ member must file a refund application with the department before ~~((they))~~ he or she can receive the refund.

(d) If a member is employed by an employer for less than twenty days in a school year, the employer must refund all salary deductions for retirement based on service during that year at the time the member terminates for the year. The ~~((nonmember))~~ member must file a refund application with the department before ~~((they))~~ he or she can receive the refund.

(2) Plan 2 and Plan 3(:

~~((a))~~; The employer must deduct ~~((salary for retirement))~~ contributions for a teacher if(:

~~((i))~~ They work at least eight hundred ten hours for nine or more months between September and August of the following year; and

~~((ii))~~ Their employment contract calls for at least ninety days of employment in a school year.

~~((b))~~ If a teacher who is not a member is employed for less than ninety days in a school year, they will fail to establish membership. The employer must refund their salary deductions for retirement when they terminate employment as a teacher. The nonmember must file a refund application with the department before they can receive the refund) the teacher is employed in an eligible position.

AMENDATORY SECTION (Amending WSR 95-22-006, filed 10/18/95, effective 11/18/95)

WAC 415-112-412 ~~((Nonmoney maintenance compensation.))~~ Are nonmoney payments from my employer ((in any form other than money)) considered compensation earnable? (1) TRS Plan ((F)) 1 members((+)):

(a) If your employer provides you with materials in lieu of reimbursement for your business expenses, the value of the materials is not earnable compensation.

(i) The value of employer-provided materials is not earnable compensation if you use the materials solely in connection with your employer's business.

(ii) "Materials" includes, but is not limited to, living quarters, food, board, equipment, clothing, laundry, transportation, fuel, and utilities:

Example: An employer provides an employee with uniforms which the employee must wear in per-

forming services for his employer. Because the uniforms are to be used solely in connection with the employer's business, they do not qualify as nonmoney maintenance compensation. Therefore, the value of the uniforms is not earnable compensation.

(b) The department presumes that your employer provides you materials solely in lieu of reimbursement for business expenses. Unless you or your employer can show by corroborating evidence that your employer provided you materials in whole or in part as payment for your personal expenses, as opposed to business expenses, the value of the materials is not earnable compensation.

(c) If your employer provides you with materials for your personal use, the value of that use is nonmoney maintenance compensation and is included in your earnable compensation.

(i) "Nonmoney maintenance compensation" means the fair market value of materials legally ~~((furnished))~~ provided by your employer to you or your dependents for personal use.

(ii) Nonmoney maintenance compensation does not include any form of compensation other than cash that is excludable from taxation under provisions of the Internal Revenue Code. This applies regardless of whether you or your employer reported the compensation to the Internal Revenue Service as taxable income.

(d) Your use of employer-provided materials will qualify as nonmoney maintenance compensation if your employer substantiates that they were provided to you as payment for personal services. In order for employer-provided materials to qualify as nonmoney maintenance compensation, your employer must:

(i) Establish and regularly update a written schedule reflecting the monthly fair market value of each item of employer-provided materials claimed as nonmoney maintenance compensation. Typically, the fair market value would be the cost of the item if it were acquired in a purchase or lease transaction;

(ii) Report the fair market value of employer-provided materials as nonmoney maintenance compensation to the department as earnable compensation. If you pay any amount to your employer in order to own or use the materials, your employer must report as earnable compensation the amount by which the fair market value of the materials exceeds the amount of your payment;

(iii) Substantiate by adequate records, or by other sufficient corroborating evidence the following:

(A) That the fair market value of each item of nonmoney maintenance compensation as reported to the department is accurate;

(B) That each item of nonmoney maintenance compensation is provided to you for your personal use as payment for your services to the employer; and

(C) That each item of nonmoney maintenance compensation is includable in your taxable income for federal income tax purposes.

Example: An employer leases an apartment for \$700.00 per month. The employer charges

an employee \$300.00 per month to use the apartment for temporary living quarters. Because the employee uses the apartment for personal, rather than business, purposes, the amount by which the lease value exceeds the employee's payment is non-money maintenance compensation. The employer must report \$400.00 per month to the department as earnable compensation for the employee.

(e) **How to corroborate that your use of employer-provided materials qualifies as nonmoney maintenance compensation.** In addition to the records required under (d) of this subsection, you may provide the department with any ~~((oral or written))~~ evidence which you or your employer believe ~~((corroborates))~~ confirms that your use of employer-provided materials qualifies as earnable compensation. However, ~~((oral))~~ verbal evidence alone has considerably less value than written evidence. Written evidence prepared at or near the time your employer provides you with the item of compensation is generally much stronger than ~~((oral))~~ verbal evidence or written evidence created years later.

(2) **TRS Plan ((H)) 2 and Plan 3 members.** If you are a TRS Plan ((H)) 2 or Plan 3 member, you are not entitled to count the value of any nonmoney maintenance compensation you receive from your employer as earnable compensation.

AMENDATORY SECTION (Amending WSR 95-22-006, filed 10/18/95, effective 11/18/95)

WAC 415-112-413 Vehicles—Does the value of my use of an employer vehicle qualify as earnable compensation? (1) TRS Plan ((F)) 1 members:

~~((a) If you use an employer vehicle solely in connection with your employer's business, your use of the vehicle does not qualify as earnable compensation. Use of an employer-provided vehicle only qualifies as earnable compensation to the extent that you use it for personal, rather than business, purposes. Your use of an employer vehicle does not qualify as earnable compensation if:~~

~~(i) You use the vehicle solely in connection with your employer's business; or~~

~~(ii) Your employer has an established policy prohibiting you from using the vehicle for any purpose other than in connection with your employer's business.~~

~~(b) The department presumes that any employer-provided vehicle is used solely in connection with your employer's business and does not qualify as earnable compensation.~~

~~(c) A portion of your use of an employer-provided vehicle may qualify as earnable compensation. In order for any portion of your use of an employer vehicle to qualify as earnable compensation, your employer must either:~~

~~(i) Report your personal use of the vehicle to the Internal Revenue Service (IRS) as income; or~~

~~(ii) Maintain monthly records reflecting your personal use of the vehicle.~~

~~(d) Your personal use of an employer vehicle qualifies as earnable compensation if your employer reports your use to the IRS as taxable income. Your employer may report your personal use of an employer vehicle to the Internal Revenue Service (IRS) as taxable income as provided under the Internal Revenue Code (I.R.C.). See I.R.C. Section 61 and Treas. Reg. Section 1.61-21. If so, the department will consider the amount reported to the IRS as earnable compensation.~~

~~(e) Your personal use of an employer vehicle qualifies as earnable compensation to the extent your employer documents your personal use of the vehicle. If your employer does not report your use of an employer vehicle to the IRS as income, your use of the vehicle may qualify as earnable compensation if your employer maintains monthly contemporaneous records detailing your personal use of the vehicle. Your employer records must reflect all of the following:~~

~~(i) Whether your employer authorized you to use the vehicle for personal use, including commuting;~~

~~(ii) Whether you used the vehicle for commuting and, if so, the distance you normally commuted on a daily basis during the month;~~

~~(iii) The dates, if any, on which you used the vehicle for other personal purposes, including the miles you drove the vehicle on each personal trip and your itinerary for each trip;~~

~~(iv) The total number of miles you drove the vehicle during the month; and~~

~~(v) The percentage of the total miles you drove the vehicle during the month for personal use, including commuting.~~

~~(f) Your employer must report as earnable compensation an amount based on your personal use of the vehicle. If your employer maintains records documenting your personal use of the vehicle as provided in (e) of this subsection, your employer must report to the department as monthly earnable compensation the lesser of the following amounts;~~

~~(i) Monthly Fair Market Lease Value of the Vehicle~~

~~*~~

~~Percentage of Personal Use of the Vehicle During the Month;~~

~~or~~

~~Miles of Personal Use~~

~~*~~

~~IRS Mileage Rate~~

~~(ii) "IRS mileage rate" means the mileage rate adopted by the Internal Revenue Service for use by taxpayers in computing the value of the use of a vehicle.))~~

(a) Use of an employer vehicle for business purposes does not qualify as compensation earnable. If your employer's established policy prohibits the use of an employer vehicle for nonbusiness uses, all use of the vehicle will be deemed business use.

(b) Use of an employer vehicle for nonbusiness purposes qualifies as compensation earnable if:

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(i) Your employer reports the value of this use as compensation earnable on a monthly basis. Monthly compensation earnable is the lesser of the following:

(A) Fair Market Lease Value x Percentage of Personal Use; or

(B) Miles of Personal Use x IRS Mileage Rate. The IRS Mileage Rate is the mileage rate adopted by the Internal Revenue Service for use by taxpayers in computing the value of the use of a vehicle; and

(ii) Your employer reports your personal use of the vehicle to the IRS as taxable income under IRC Section 61 and Treas. Reg. Section 1.61-21; or

(iii) Your employer maintains monthly records of your personal use.

These records must contain:

(A) Your employer's authorization of your personal use;

(B) The distance normally commuted each day during the month, if you use the vehicle to commute;

(C) The dates, mileage, and itinerary of each personal trip other than a commute trip; and

(D) Your total mileage for the month.

(E) The ratio of personal mileage to total mileage, expressed as a percent.

(c) The department presumes that your use of an employer vehicle is solely for business purposes.

(2) TRS Plan ((H)) 2 and Plan 3 members. If you are a ((TRS Plan H)) member of TRS Plan 2 or Plan 3, you are not entitled to count any of the value of an employer-provided vehicle as earnable compensation.

AMENDATORY SECTION (Amending WSR 99-14-008, filed 6/24/99, effective 7/25/99)

WAC 415-112-725 Married member's benefit selection—Spousal consent required. (1) ~~((A member,))~~ If married, you must provide ~~((the))~~ your spouse's written consent to the option you selected under WAC 415-112-727. If, as a married member ~~((does))~~ you do not provide spousal consent, the department will pay ~~((the retired member))~~ you, as a retiree, a joint and ~~((fifty percent))~~ one-half survivor benefit allowance and record ~~((the member's))~~ your spouse as the survivor, in compliance with RCW 41.32.530(2) ~~((and)),~~ 41.32.785(2), and 41.32.851(2).

(2) ~~((Spousal consent is not needed to enforce a marital dissolution order requiring the department to pay an ex-spouse under RCW 41.50.790.))~~ The department will comply with a dissolution order, consistent with the terms of RCW 41.50.790, that requires it to pay an ex-spouse of a Plan 1 or Plan 2 member, whether or not the member's spouse has consented.

(3) "Spousal consent" means that ~~((the married member's))~~ your spouse consents to the retirement option selected by ~~((the member))~~ you. ~~((The))~~ Your spouse's notarized signature on a completed retirement application constitutes spousal consent.

AMENDATORY SECTION (Amending WSR 01-01-059, filed 12/12/00, effective 1/12/01)

WAC 415-113-0303 Dual member system—Definition and system acronyms. "Dual member system" ~~((means))~~ is defined as the state and city retirement systems admitted to participate under chapter 41.54 RCW. These systems are:

~~((1))~~ PERS Plans 1 and 2;

~~((2))~~ TRS Plans 1, 2 and 3;

~~((3))~~ LEOFF Plan 2;

~~((4))~~ WSPRS;

~~((5))~~ Statewide city employees' retirement system;

~~((6))~~ The first class city retirement systems; and

~~((7))~~ SERS Plans 2 and 3.) (1) First class city retirement systems of Seattle, Tacoma and Spokane;

(2) Law enforcement officers' and fire fighters' (LEOFF) retirement system Plan 2;

(3) Public employees' retirement system (PERS) Plan 1, Plan 2 and Plan 3;

(4) School employees' retirement system (SERS) Plan 2 and Plan 3;

(5) Statewide cities employees' retirement system (SCERS);

(6) Teachers' retirement system (TRS) Plan 1, Plan 2 and Plan 3; and

(7) Washington state patrol retirement system (WSPRS) Plan 1 and Plan 2.

AMENDATORY SECTION (Amending WSR 01-01-059, filed 12/12/00, effective 1/12/01)

WAC 415-113-041 Am I a dual member? You must meet all of the following criteria to be a dual member:

(1) **You must be a participating member of a dual member system.** You must be a current member participant in at least one ~~((dual member system))~~ of the systems listed in WAC 415-113-030 to be a dual member. You may have established dual member status if you are or were a member participant ~~((of a dual member))~~ in one of those systems on or after:

(a) July 1, 1988, for current or former members of all plans of PERS, SERS, TRS, SCERS or WSPRS;

(b) July 25, 1993, for current or former members of LEOFF Plan 2; or

(c) January 1, 1994, for current or former members of a first class city retirement system;

(2) **You must also be a former or current member of ~~((another dual member))~~ at least one other system listed in WAC 415-113-0303.**

(3) **You must not have been retired for service from a retirement system.** You are not a dual member if you have ever been retired for service from any retirement system administered by the department of retirement systems or a first class city retirement system.

(4) ~~((You must not be in receipt of a disability benefit from a dual member system.))~~ If you are receiving a disability retirement allowance or disability leave benefits from

a dual member system or LEOFF Plan 1, you cannot be a dual member.

(a) If you have received a lump sum disability benefit from PERS Plan 2 or 3, SERS Plan 2 or 3, TRS Plan 2 or 3 or LEOFF Plan 2 you are in receipt of a disability benefit unless the department has found that you are no longer disabled.

(b) You are not receiving a disability retirement allowance or disability leave benefits if you:

(i) Previously received disability benefits and the department has subsequently found that you are no longer disabled, and has terminated your disability benefit; or

(ii) Retired for disability from service from WSPRS Plan 1 or 2.

Example 1: A former PERS Plan 1 member who has never been retired and becomes a member participant in TRS Plan 2 through employment with a TRS employer becomes a dual member.

(5) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Dual member" - RCW 41.54.010(4).

(b) "Dual member system" - WAC 415-113-0303.

(c) "Member participant" - WAC 415-113-0305.

AMENDATORY SECTION (Amending WSR 01-01-059, filed 12/12/00, effective 1/12/01)

WAC 415-113-042 ~~((Can I))~~ **What can terminate my status as a dual member?** ~~((Termination of dual member status—Reestablishing dual member status.))~~ (1) **If you ~~((are not a))~~ terminate your status as a participating member, you ~~((are not))~~ also terminate your status as a dual member.** If you are no longer a member participant in any dual member system, you are no longer a dual member. If you later become a member of a dual member system, you again become a dual member.

Example 2: Upon separation from TRS Plan 2 eligible employment, the person in Example 1 ~~((is))~~ (see WAC 415-113-041) is no longer a member of TRS Plan 2 nor a dual member.

(2) **If you retire, you are no longer a dual member.** ~~((Upon retirement))~~ **When you retire** from any or all dual member systems, ~~((a person is))~~ **you are** no longer a dual member except for the purpose of receiving a deferred retirement allowance under RCW 41.54.030(3) and WAC 415-113-070.

(3) **If you ~~((are not a))~~ terminate dual ~~((member))~~ membership, you may still be eligible ~~((for))~~ to receive a multiple system benefit** ~~((If you are no longer a dual member you may still be able to receive a multiple system benefit))~~ **if otherwise eligible.** The accrual date of your retirement allowance will vary depending upon the provisions of the particular system. You can find the accrual dates of different dual member systems in the following provisions:

~~((a))~~ **PERS 1:** RCW 41.40.193;

~~((b))~~ **PERS 2:** RCW 41.40.680;

~~((c))~~ **TRS 1:** WAC 415-112-520;

~~((d))~~ **TRS 2:** RCW 41.32.795;

~~((e))~~ **TRS 3:** RCW 41.32.855;

~~((f))~~ **LEOFF 2:** RCW 41.26.490;

~~((g))~~ **SERS 2:** RCW 41.35.450;

~~((h))~~ **SERS 3:** RCW 41.35.640;

~~((a))~~ **LEOFF 2:** RCW 41.26.490;

~~((b))~~ **PERS 1:** RCW 41.40.193;

~~((c))~~ **PERS 2:** RCW 41.40.680;

~~((d))~~ **PERS 3:** RCW 41.40.801;

~~((e))~~ **SERS 2:** RCW 41.35.450;

~~((f))~~ **SERS 3:** RCW 41.35.640;

~~((g))~~ **TRS 1:** WAC 415-112-520;

~~((h))~~ **TRS 2:** RCW 41.32.795;

~~((i))~~ **TRS 3:** RCW 41.32.855.

(4) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Dual member" - RCW 41.54.010(4), WAC 415-113-041.

(b) "Dual member system" - WAC 415-113-0303.

(c) "Member participant" - WAC 415-113-0305.

(d) "Multiple system benefit" - WAC 415-113-0306.

AMENDATORY SECTION (Amending WSR 01-01-059, filed 12/12/00, effective 1/12/01)

WAC 415-113-065 Can I substitute salary from one system to another? (1) You can substitute base salary between systems.

(a) If you ~~((elect))~~ **choose** to retire with a multiple system benefit, you may substitute your base salary under one dual member system for your includable compensation in a second dual member system for purposes of computing a retirement allowance from the second system. Using the substituted salary, the department will compute your average compensation under each system's own requirements.

Example 6: At retirement, ~~((a person))~~ **Sandy** is a member participant in PERS Plan 2 and has prior creditable service in TRS Plan 1. ~~((Assume the multiple system retiree))~~ **She** earned her highest compensation during her PERS Plan 2 service. ~~((The retiree's))~~ **Sandy's** PERS Plan 2 retirement allowance will be based on her PERS Plan 2 average compensation. For purposes of computing her TRS average compensation and retirement allowance, ~~((she))~~ **Sandy** may substitute her PERS Plan 2 base salary earned over two consecutive fiscal years for her earnable compensation in TRS.

Example 7: At retirement, ~~((a person))~~ **Pat** is a member participant in TRS Plan 1 and has prior creditable service in PERS Plan 1. ~~((Assume the multiple system retiree))~~ **He** earned his highest compensation during his membership in TRS Plan 1 **and received a sick-leave cashout.** ~~((The retiree))~~ **Pat** may substitute his base salary earned while a member in TRS Plan 1 for his PERS Plan 1 compensation earnable. However, because ~~((he))~~ **Pat** may substitute

only his base salary from TRS Plan 1 for his compensation earnable in PERS, his PERS average compensation will not include ~~((any))~~ the cashout payments from his TRS employer.

(b) If you do not have sufficient service credit months in one dual member system to complete an average compensation period under that system, the department will substitute the appropriate number of months of base salary from another system to complete the average compensation period.

Example 8: ~~((A person who))~~ Tim has creditable service in TRS Plan 1 and PERS Plan 2. He retires at age sixty-five ~~((having accrued))~~ after accruing twenty-four months of service in PERS Plan 2. Under PERS Plan 2, a member's average compensation period is the member's highest consecutive sixty-month period of compensation. To compute ~~((the multiple system retiree's))~~ Tim's PERS Plan 2 retirement allowance, the department will substitute ~~((her))~~ his highest consecutive thirty-six service credit months of TRS base salary to complete the PERS sixty-month average compensation period.

(2) **Adjusted full-time salary is not base salary.** A multiple system retiree's adjusted full-time salary under RCW 41.32.345 shall not constitute base salary for purposes of computing the retiree's multiple system benefit.

(3) **Includable compensation defined.** For purposes of this chapter, "includable compensation" means:

(a) Earnable compensation under TRS Plan 1, 2 or 3 as defined in RCW 41.32.010(10);

(b) Compensation earnable under PERS Plan 1 ~~((or))~~, 2 or 3 as defined in RCW 41.40.010(8);

(c) Basic salary under LEOFF Plan 2 as defined in RCW 41.26.030 (13)(b);

(d) Monthly salary under WSPRS Plan 1 or 2 as ~~((used))~~ defined in RCW 43.43.120~~((+5))~~ (23) and WAC 415-103-010; and

(e) Compensation earnable under SERS Plan 2 or 3 as defined in RCW 41.35.010(6).

(4) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Average compensation" - WAC 415-113-0302.

(b) "Base salary" - RCW 41.54.010(1).

(c) "Dual member system" - WAC 415-113-0303.

(d) "Member participant" - WAC 415-113-0305.

(e) "Multiple system benefit" - WAC 415-113-0306.

(f) "Multiple system retiree" - WAC 415-113-0308.

AMENDATORY SECTION (Amending WSR 01-01-059, filed 12/12/00, effective 1/12/01)

WAC 415-113-070 ~~((Can I defer my retirement allowance from a system if I retire with a multiple system benefit?))~~ If I retire as a dual member, must I receive benefits from both systems immediately? ~~((+))~~ You may defer receipt of your retirement allowance. If, by combining

creditable service, you qualify to retire in one system but not in a second system, you must either:

(a) Receive an actuarially reduced retirement allowance from the second system; or

(b) Defer retirement in the second system until a later date of your choice. If you choose to begin receiving a retirement allowance from your second system before you are fully eligible, the benefit will be actuarially reduced.

(i) If you elect to defer retirement in the second system, you retain dual member status for the sole purpose of receiving a deferred multiple system benefit;

(ii) If you retire from all systems but elect to defer retirement in one dual member system under RCW 41.54.030(3), you may not subsequently withdraw accumulated contributions from that system.

(c) An actuarial reduction under (a) or (b) of this subsection, if applicable, will account for the difference between your age at the time you begin receiving the retirement allowance and the earliest age where you would be fully eligible based upon your combined service. "Fully eligible" means a person who has enough combined service to qualify for a retirement allowance from a dual member system without receiving a reduction for:

(i) Early retirement from a Plan 2 or Plan 3 system under RCW 41.40.630(2), 41.35.420(2), 41.35.680(2), 41.32.765(2), 41.32.875(2), 41.26.430(2); or

(ii) Early retirement from a Plan 3 system under RCW 41.32.875(2); or

(iii) Retirement as a nonmember participant from WSPRS under RCW 43.43.280(2).

(2) If you defer your retirement allowance and later reenter membership, you are no longer a dual member. If, after deferring retirement, you enter membership in a dual member system, your dual member status terminates. Once your dual member status terminates:

(a) You may only retire under the deferred system if eligible based solely upon that system's retirement eligibility criteria; and

(b) Your retirement allowance under the deferred system will be based solely upon service actually established in that system;))

(1) If you qualify to retire in one system but not the second system, you may nonetheless choose to retire from both systems and receive a multiple system benefit.

(2) If you retire with a multiple system benefit, before you have become eligible in a second system(s), you must either:

(a) Take an actuarial reduction in the retirement allowance you receive from the second system(s); or

(b) Defer receipt of your retirement allowance in the second system(s) under RCW 41.554.030(3).

(3) If you take an actuarial reduction under subsection (2)(a) of this section, the reduction will account for the difference between your age at the time you begin to receive the retirement allowance and the earliest age when you would be fully eligible based on your combined service. You are "fully eligible" when you meet the age and service qualifications for retirement for each system.

(4) If you defer receipt of your retirement allowance under subsection (2)(b) of this section:

(a) You will retain dual member status for the sole purpose of receiving a deferred retirement allowance from the second system(s); and

(b) You may not subsequently withdraw accumulated contributions from the second system(s).

Example 9: A sixty-two year old dual member of PERS Plan 1 and TRS Plan 2 retires. He ~~((elects))~~ chooses to receive PERS Plan 1 benefits but defers receipt of a TRS Plan 2 retirement allowance. If he becomes reemployed in a TRS Plan 2 eligible position, he will reenter TRS Plan 2 membership if otherwise eligible and terminate his dual member status, but he will continue to receive his PERS Plan 1 retirement allowance until he works more than the work-limit in a calendar year under WAC 415-108-710. The member's eligibility to retire from TRS Plan 2 will be based solely on his accrued service credit in TRS Plan 2 and his TRS Plan 2 retirement allowance will be based solely on his compensation while he was a member participant in TRS Plan 2.

Example 10: Assume the retiree in Example 9 above became reemployed in a PERS position rather than a TRS Plan 2 position. He could work in this position up to the work-limit in a calendar year under WAC 415-108-710 without having his PERS retirement allowance suspended. If the retiree works over the work-limit:

- The department would suspend his retirement allowance until the next calendar year. He would remain a dual member. He would be able to retire in TRS 2 if otherwise eligible;
- The retiree could ~~((elect))~~ choose to reenter PERS Plan 1 membership at any time, if otherwise eligible, and terminate his dual member status. His ~~((election))~~ choice for membership is not retroactive. The effect on the person's right to a TRS Plan 2 benefit is the same as in Example 9. See WAC 415-108-710.

~~((3))~~ (5) If you defer your retirement allowance and die before you begin receiving the allowance, your survivor may receive a continuing benefit. If you defer receipt of your retirement allowance from a system and die before you ~~((elect))~~ choose to begin receiving the allowance:

(a) Your surviving spouse, if any, must ~~((elect))~~ choose to receive either:

(i) A joint and one hundred percent survivor option from the deferred system. If your surviving spouse selects this option, your base salary under one system may be substituted for your includable compensation in the deferred system to compute the survivor retirement allowance from the deferred system; or

(ii) A refund of your accumulated contributions from the deferred system.

(b) If you do not have a surviving spouse, the department will pay your accumulated contributions from the deferred system to:

- (i) Your designated beneficiary or beneficiaries; or

(ii) Your estate, if there are no living beneficiaries.

~~((4))~~ (6) Defined terms used. Definitions for the following terms used in this section may be found in the sections listed.

(a) "Dual member system" - ~~((RCW 41.32.010(4), WAC 415-113-041))~~ WAC 415-113-0303.

(b) ~~((("Member participant" - WAC 415-113-0305.~~

(e)) "Includable compensation" - WAC 415-113-065(3).

(c) "Member participant" - WAC 415-113-0305.

(d) "Multiple system participant" - WAC 415-113-0307.

(e) "Nonmember participant" - WAC 415-113-0309.

(f) "System" - RCW 41.54.010(6).

AMENDATORY SECTION (Amending WSR 99-22-043, filed 10/29/99, effective 11/29/99)

WAC 415-113-090 What is the maximum retirement benefit that I may receive under chapter 41.54 RCW? (1) ~~((Your benefit may not exceed the highest benefit limit under any one system.))~~ Your multiple system benefit may not exceed the highest maximum benefit which you would be permitted to receive under any one of the dual member systems from which you are retiring if all of your service had been provided in one system. See RCW 41.54.070.

(2) The department will compute your maximum multiple system benefit in the following order:

(a) **Calculate the maximum benefit you could receive under each system.** The department will compute your maximum benefit according to the benefit limitation provisions of each system as if you had earned your total career service and compensation in that system. In computing your maximum benefit under each system, the department will:

(i) Apply the provisions of each system governing the calculation of your average compensation in that system; and

(ii) Assume you earned all of your career service with your last employer for purposes of determining any limitations on the inclusion of leave cashouts in your average compensation.

Example 18: A multiple system retiree retires from TRS Plan 1 state employment with prior creditable PERS Plan 1 service. His ~~((state))~~ PERS employer pays him an accrued sick leave cashout at termination. Because a sick leave cashout from a state agency employer is not includable as TRS earnable compensation, the department will not include the cashout in the retiree's average compensation for purposes of computing either his PERS Plan 1 or TRS Plan 1 maximum benefit.

Example 19: A multiple system retiree retires from PERS Plan 1 local government employment and receives a sick leave cashout. Because a sick leave cashout from a local government employer may be included as earnable compensation, the department will include the sick leave cashout to compute the retiree's maximum benefits under both PERS Plan 1 and TRS Plan 1.

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(b) **Determine your retirement allowances from each system.** After computing your maximum benefit, the department will determine the retirement allowances to which you are entitled (~~(to)~~) from each system under chapter 41.54 RCW before making any reduction under RCW 41.54.070. If applicable, the department will then reduce the amount of your retirement allowances provided by either of the dual member systems for:

(i) Your status as a nonmember participant of WSPRS Plan 1 or 2 pursuant to RCW 43.43.280(2); or

(ii) Your (~~(election)~~) choice to retire early from a Plan 2 system under RCW 41.40.630(2), 41.32.765(2), 41.35.420(2), and 41.26.430(2) or Plan 3 system under RCW 41.32.875(2), 41.35.680(2), and 41.40.820(2).

(c) **Compute your total multiple system benefit.** Upon computing your retirement allowances from each system and making any applicable reductions under (b) of this subsection, the department will add the systems' allowances to compute your total multiple system benefit.

(d) **Compare your total multiple system benefit with your maximum benefit and, if necessary, proportionately reduce your retirement allowances.** The department will then compare your total multiple system benefit with your maximum benefit calculated in (a) of this subsection. If your total multiple system benefit exceeds your maximum benefit, the department will proportionately reduce your retirement allowances provided by each system as follows:

(i) Calculate what proportion your total multiple system benefit is provided by each system separately; and

(ii) Proportionately reduce the benefit provided by each system to account for the excess of your total multiple system benefit over your maximum benefit.

Example 20: A person with twenty-nine years of prior service in TRS Plan 1 and one year of subsequent service in PERS Plan 2 retires from both systems at age sixty-five. The retiree's TRS Plan 1 average compensation is thirty thousand dollars. The TRS Plan 1 maximum benefit is sixty percent of average compensation. The retiree's maximum TRS benefit is eighteen thousand dollars or one thousand five hundred dollars per month. The retiree's PERS Plan 2 average compensation is twenty-eight thousand dollars. The retiree's maximum PERS 2 benefit is sixteen thousand eight hundred dollars or one thousand four hundred dollars per month. The retiree's maximum benefit is the higher of the two amounts, one thousand five hundred dollars per month.

Assume the retiree's accrued service is such that her actual TRS Plan 1 monthly benefit is one thousand four hundred fifty dollars and her PERS Plan 2 monthly benefit is one hundred dollars. The retiree's total multiple system benefit is the sum of her TRS Plan 1 and PERS Plan 2 benefits, or one thousand five hundred fifty dollars. Because the retiree's total multiple system benefit exceeds her maximum benefit by fifty dollars, the department would propor-

tionately reduce her TRS Plan 1 and PERS Plan 2 benefits. Her TRS Plan 1 benefit is 29/30 of her total service or ninety-seven percent, and her PERS Plan 2 benefit is 1/30 of total service, or three percent. The department would reduce her TRS Plan 1 benefit by ninety-seven percent of the overage, or forty-eight dollars and fifty cents (50 x .97) and her PERS Plan 2 benefit by three percent of the overage, or one dollar and fifty cents (50 x .03).

(3) **If you select a benefit payment option, the department will reduce your multiple system benefit to account as appropriate.** After making any applicable maximum benefit reductions, the department will further reduce your benefit if you (~~(elect)~~) choose:

(a) To withdraw your accumulated contributions at the time you retire from TRS Plan 1;

(b) A survivor benefit option; or

(c) A cost-of-living adjustment (COLA) option.

(4) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Average compensation" - WAC 415-113-0302.

(b) "Dual member" - RCW 41.54.010(4), WAC 415-113-041.

(c) "Dual member system" - WAC 415-113-0303.

(d) "First class city system" - WAC 415-113-0304.

(e) "Member participant" - WAC 415-113-0305.

(f) "Multiple system benefit" - WAC 415-113-0306.

(g) "Multiple system retiree" - WAC 415-113-0308.

(h) "Nonmember participant" - WAC 415-113-0309.

AMENDATORY SECTION (Amending WSR 01-01-059, filed 12/12/00, effective 1/12/01)

WAC 415-113-200 SERS and PERS concurrent employment. For the purposes of this section and pursuant to RCW 41.35.005, 41.35.010, 41.40.010, and 41.54.100, "concurrent employment" refers to (~~(an individual who is employed simultaneously))~~ simultaneous employment in an eligible SERS Plan 2 or Plan 3 position and an eligible PERS Plan 2 or Plan 3 position.

If a member has been concurrently employed at any time, this section governs the calculation of service credit, average final compensation, and retirement benefits attributable to all periods of PERS employment, SERS employment, and concurrent employment.

(1) **Can I participate in SERS and PERS at the same time?** Yes, you may participate in SERS and PERS at the same time when employed concurrently in a PERS eligible position and a SERS eligible position. Your SERS employer will report your SERS eligible service in SERS. Your PERS employer will report your PERS eligible service in PERS.

(2) **Will the factors used to calculate my defined benefit be different because of concurrent employment in SERS and PERS?** No, the department will calculate your service credit and average final compensation as if all of your employment was reported in one system. These two factors are used to calculate your defined benefit.

(3) Will the amount of my benefit be different because of concurrent employment?

(a) If you are concurrently employed in SERS Plan 2 and PERS Plan 2, the amount of your benefit from SERS and PERS combined will be the same as if all of your service had been reported and you received a benefit in one system, because:

(i) SERS Plan 2 and PERS Plan 2 both use identical two-percent benefit formulas; and

(ii) Your total service credit and average final compensation will not be different than if all of your service had been reported in one system pursuant to subsection (2) of this section.

(b) If you are concurrently employed in SERS Plan 3 and PERS Plan 2, the amount of your benefit may be (~~greater or less~~) larger or smaller than if all of your service had been reported in one system:

(i) SERS Plan 3 uses a one-percent defined benefit formula and has a defined contribution component. You are responsible for the investment of your defined contribution component, which is subject to investment gains or losses; therefore, the dollar value of your total benefit may be greater or less than what you would have received if all of your service had been reported in one defined benefit system.

(ii) The allocation of your service credit while concurrently employed, as described in subsection (4) of this section, may also affect the dollar value of your benefit.

(4) How is my service credit granted while concurrently employed? As a concurrently employed member, you are entitled to exactly the same amount of service credit for your SERS and PERS service combined that you would have received had all of your service been reported in one system.

To calculate your service credit the department will:

(a) Combine your SERS and PERS service to determine the amount of service credit you would have earned had all of your service been reported in one system.

(b) Calculate and grant service credit in SERS based only on your reported SERS service.

(c) Calculate and grant service credit in PERS by subtracting the amount of service credit granted for SERS in (b) of this subsection from the amount of service credit calculated in (a) of this subsection that you would have earned had all of your service been reported in one system (see example 1):

(i) For any month (~~that~~) in which you receive one month of service credit in SERS for a calendar month of employment, you will not receive any PERS service credit in that month.

(ii) The combined service credit in SERS and PERS may not exceed one month of service for a calendar month of employment.

(d) Adjust the SERS service credit at the conclusion of each school year in accordance with the provisions of RCW 41.35.180. This adjustment may cause changes in the combined SERS/PERS service credit and/or changes in the PERS service credit. (See example 2).

Example 1: Monthly computation of concurrent employment service credit.

Part-time SERS and part-time PERS.

(a) During a month, a member works 80 hours at a school district and 100 hours at a county. If all of the service had been reported in one system, the maximum the member could have earned is one service credit for that month. The member will be granted .5 service credit in SERS based on the 80 hours of service reported in SERS and will receive .5 service credit in PERS based on subtracting the .50 service credit in SERS from the maximum of 1.00 service credit.

(b) During a month, a member works 65 hours at a school district and 30 hours at a county. If all of the service had been reported in one system, the maximum the member could have earned is one service credit for that month. The member will be granted .25 service credit in SERS based on the 65 hours of service reported in SERS and will receive .75 service credit in PERS based on subtracting the .25 service credit in SERS from the maximum of 1.00 service credit.

Full-time SERS and part-time PERS.

During a month, a member works 172 hours for an educational service district and works 30 hours for a state agency. If all of the service had been reported in one system, the maximum the member could have earned is one service credit for that month. The member will be granted one month of service credit in SERS based on the 172 hours of service reported in SERS and will receive 0.0 service credit in PERS (even though they worked 30 hours) based on subtracting the 1.00 service credit in SERS from the maximum of 1.00 service credit.

Part-time SERS and full-time PERS.

During a month, a member works 40 hours for a school district and 180 hours for a city. If all of the service had been reported in one system, the maximum the member could have earned is one service credit for that month. The member will be granted .25 service credit in SERS based on the 40 hours of service reported in SERS and will receive .75 service credit in PERS based on subtracting the .25 service credit in SERS from the maximum of 1.00 service credit.

Example 2: Application of the educational service credit rules and the effects on concurrent employment service credit computation.

During September, October, and November a member works 60 hours, 30 hours, and 70 hours in SERS and works 90 hours, 30 hours, and 60 hours in PERS, respectively. Based on these hours, the member would have been granted .25, .25, and .50 service credits in SERS and .75, 0.0, and .50 in PERS. The member's service credit calculated on a

monthly basis through November is shown in Table 1 below.

At the end of the school year, the educational service credit rules (RCW 41.35.180) are applied. The application of these rules may cause one or more months of SERS service credit to change. A change in the SERS service credit for any given month may cause the combined SERS/PERS service credit to change. See Table 2, second line. The PERS service credit would then need to be recalculated for any month that the SERS service credit changed.

The members service for the entire school year is shown in Table 2 below. Applying the educa-

tional service credit rules, the member is now entitled to six service credit months in SERS for the school year (.50 in each month of September through August) based on working a total of 750 hours for the year. Thus, the service credit in September would be changed to .50 service credit in SERS and .50 credit in PERS. The service credit in October would be changed to .50 service credit in SERS and would remain at 0.0 service credit in PERS. November's service credit calculation is not affected by the application of the educational service credit rules.

Table 1: Month by Month Determination

	HOURS			SERVICE CREDIT		
	Combined PERS/SERS	SERS	PERS	Combined PERS/SERS	SERS	PERS
Sept	150	60	90	1	0.25	0.75
Oct	60	30	30	.25	.25	0.00
Nov	130	70	60	1	0.50	0.50

Table 2: After RCW 41.35.180 Adjustment

	HOURS			SERVICE CREDIT		
	Combined PERS/SERS	SERS	PERS	Combined PERS/SERS	SERS	PERS
Sept	150	60	90	1	0.5	0.5
Oct	60	30	30	0.5	0.5	0
Nov	130	70	60	1	0.5	0.5
Dec	120	60	60	1	0.5	0.5
Jan	140	70	70	1	0.5	0.5
Feb	160	90	70	1	0.5	0.5
Mar	130	60	70	1	0.5	0.5
Apr	140	70	70	1	0.5	0.5
May	130	70	60	1	0.5	0.5
Jun	130	70	60	1	0.5	0.5
Jul	80	40	40	0.5	0.5	0
Aug	120	60	60	1	0.5	0.5
		750		11	6	5

(5) How is my average final compensation calculated if I have been concurrently employed? Your average final compensation will be calculated by combining all compensation earnable and service credit from all periods of SERS employment, PERS employment, and concurrent employment and then determining your highest consecutive sixty service credit months prior to your retirement, termination, or death. If an authorized leave occurs during the highest consecutive sixty service credit months, amounts earned during the period of leave will not be used in the calculation of average final compensation, except under RCW 41.40.710(2), 41.35.470(2) or 41.35.650(2).

(6) How is my defined benefit in each system calculated? A retirement allowance will be calculated using the appropriate formula for each system and plan as described in chapters 41.40 and 41.35 RCW, except that:

(a) The PERS service credit granted under subsection (4) of this section will be used in the PERS calculation and the SERS service credit granted under subsection (4) of this section will be used in the SERS calculation; and

(b) The average final compensation calculated under subsection (5) of this section will be used as the average final compensation for both PERS and SERS.

PERMANENT

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 415-113-0310 System acronyms—Definition.

AMENDATORY SECTION (Amending WSR 01-01-059, filed 12/12/00, effective 1/12/01)

WAC 415-200-030 Plan 3 external administrators. The employee retirement benefits board may obtain external investment management services to assist with the provision of self-direct investment options. External administrator and investment management services will be obtained through competitive procurement processes to ensure the teachers' retirement system Plan 3 ((and)), school employees' retirement system Plan 3 and the public employees' retirement system Plan 3 members receive quality services and competitive pricing. The department of retirement systems may select external administrators to assist with the administration of the defined contribution portion of ~~((the teachers' retirement system plan III established under chapter 41.34 RCW and the school employees' retirement system plan 3 established under chapter 41.35 RCW))~~ Plan 3 systems.

**WSR 02-03-124
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed January 23, 2002, 9:25 a.m., effective March 1, 2002]

Date of Adoption: January 23, 2002.

Purpose: Chapter 296-78 WAC, Safety standards for sawmills and woodworking operations.

WAC 296-78-56501 Log dumps and ponds and 296-78-56505 Boats and mechanical devices on waters, are being amended to make them at-least-as-effective-as federal requirements (29 C.F.R. 1910.265 (d)(2)(h) and 29 C.F.R. 1910.265 (d)(2)(g), respectively).

WAC 296-78-56501 Log dumps and ponds.

- Amended to mirror federal rule regarding when buoyant devices must be provided and used.

WAC 296-78-56505 Boats and mechanical devices on waters.

- Amended WAC 296-78-56505 (8)(f) to remove buoyancy and strength minimums for life rings and attached lines, that are not contained in federal rule.

Citation of Existing Rules Affected by this Order: WAC 296-78-56501 Log dumps and ponds and 296-78-56505 Boats and mechanical devices on waters.

Statutory Authority for Adoption: RCW 49.17.010, [49.17].040, and [49.17].050.

Adopted under notice filed as WSR 01-21-138 on October 24, 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 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 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 2, Repealed 0.

Effective Date of Rule: March 1, 2002.

January 23, 2002

Gary Moore

Director

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-78-56501 Log dumps and ponds. (1) Log dumps, booms, ponds or storage areas, if used at night, shall be illuminated in accordance with the requirements of WAC 296-800-210, safety and health core rules.

(2) A log dump shall be constructed at each log pond or decking ground. Log trucks shall not be unloaded by use of peavies or by hand.

(a) The roadbed shall be of hard packed gravel, heavy planking or equivalent material and shall be maintained at all times. Roadbeds at log dumps shall be of width and evenness to insure safe operation of equipment.

(b) A mechanical unloading device shall be provided and used for unloading logs. Log unloading areas shall be arranged and maintained to provide a safe working area.

(c) Signs prohibiting unauthorized foot or vehicle traffic in log unloading and storage areas shall be posted.

(d) At no time shall one person be permitted to work alone on a log dump, a booming or rafting grounds, or a log pond.

(3) Water log dumps. Ungrounded electrically powered hoists using handheld remote control in grounded locations, such as log dumps or mill log lifts, shall be actuated by circuits operating at less than 50 volts to ground.

(4)(a) A brow log, skid timbers or the equivalent shall be installed on all log dumps.

(b) Where logs are unloaded onto skids, sufficient space shall be provided between the top of the skids and the ground to accommodate the body of a person.

(c) All truck dumps shall be built with not more than six inches variation of level from side to side.

(5)(a) All truck log dumps shall be equipped with a positive safeguard to prevent logs from leaving the load on the side opposite the brow log. Jill pokes shall not be used on truck log dumps.

(b) Unloading lines shall be attached and tightened or other positive safeguard in place before binder chains are released at any log dump.

(c) Stakes and chocks which trip shall be constructed in such manner that the tripping mechanism that releases the stake or chocks is activated at the opposite side of the load being tripped.

(d) Binders shall be released only from the side on which the unloader operates, except when released by remote control devices or except when person making release is protected by racks or stanchions or other equivalent means.

(e) Loads on which a binder is fouled by the unloading machine shall have an extra binder or metal band of equal strength placed around the load, or the load shall be otherwise secured so that the fouled binder can be safely removed.

(f) Unloading lines, crotch lines, or equally effective means shall be arranged and used in a manner to minimize the possibility of any log swinging or rolling back.

(6)(a) In unloading operations, the operator of unloading machine shall have an unobstructed view of the vehicle and the logs being unloaded.

(b) Unloading lines shall be arranged so that it is not necessary for the employees to attach them from the pond or dump site of the load except when entire loads are lifted from the log-transporting vehicle.

(7) All log dumps shall be kept reasonably free of bark and other debris.

(8) Employees shall remain in the clear until all moving equipment has come to a complete stop.

(9) Artificial log ponds subject to unhealthy stagnation shall be drained, cleansed, and water changed at least once every six months.

(10) All employees whose regular work requires walking on logs shall wear spiked or calked shoes, except when working in snow.

(11) ~~Employees ((working on, over or along water, where the danger of drowning exists, shall be provided with and shall wear approved personal flotation devices)) whose duties require them to work from boats, floating logs, boom sticks, or walkways along or on water must be provided with and must wear appropriate buoyant devices while performing such duties.~~

(a) Employees are not considered exposed to the danger of drowning:

(i) When working behind standard height and strength guardrails;

(ii) When working inside operating cabs or stations which eliminate the possibility of accidentally falling into the water;

(iii) When wearing approved safety belts with lifeline attached so as to preclude the possibility of falling into the water(;

~~(iv) When water depth is known to be chest deep or less)).~~

(b) Prior to and after each use, personal floating devices shall be inspected for defects which would reduce their designed effectiveness. Defective personal flotation devices shall not be used.

(c) To meet the approved criteria required by this subsection (11), a personal flotation device shall be approved by the United States Coast Guard as a Type I PFD, Type II PFD, Type III PFD, or Type V PFD, or their equivalent, pursuant to 46 CFR 160 (Coast Guard lifesaving equipment specifica-

tions) and 33 CFR 175.23 (Coast Guard table of devices equivalent to personal flotation devices). Ski belt or inflatable type personal flotation devices are specifically prohibited.

(12)(a) Wooden pike poles shall be of continuous, straight grained No. 1 material. Defective poles, blunt or dull pikes shall not be used.

(b) Aluminum or other metal poles shall not be used where hazard of coming in contact with live electric wires exists.

(13)(a) Walkways and floats shall be provided and security anchored to provide safe passage for workers.

(b) Permanent cable swifters shall be so arranged that it will not be necessary to roll boom sticks in order to attach or detach them.

(c) Inspection of cable or dogging lines shall be made as necessary to determine when repair or removal from service is necessary.

(14)(a) Decks of floats or other walkways shall be kept above the waterline at all times and shall be capable of supporting four times the load to be imposed.

(b) Floating donkeys or other power-driven machinery used on booms shall be placed on a raft or float with enough buoyancy to keep the deck above water.

(15)(a) All regular boom sticks and foot logs shall be reasonably straight, have all protruding knots and bark removed, and shall be capable of supporting above the waterline at either end, any necessary weight of workers and equipment.

(b) Stiff booms shall be two float logs wide secured by boom chains or other connecting devices, and of a width adequate for the working needs. Walking surfaces shall be free of loose material and maintained in good repair.

(c) Boom sticks shall be fastened together with crossties or couplings.

AMENDATORY SECTION (Amending WSR 01-17-033, filed 8/8/01, effective 9/1/01)

WAC 296-78-56505 Boats and mechanical devices on waters. (1) The applicable provisions of the Standard for Fire Protection for Motorcraft, NFPA No. 302-1994, shall be complied with. Prior to starting the boat motor, any spilled fuel shall be removed and vapors shall be exhausted from any area in which they may accumulate.

(2) The bilge area shall be kept clean and oil, grease, fuel, or highly combustible materials shall not be allowed to accumulate.

(3) Adequate ventilation equipment shall be provided and used for the bilge area to prevent the accumulation of toxic or explosive gases or vapors.

(4) Adequate ventilation equipment shall be provided and used for the cabin area on enclosed cabin-type boats to prevent an accumulation of harmful gases or vapors.

(5) Deck and cabin lighting shall be provided and used where necessary to provide safe levels of illumination aboard boats. Boats operated during the period from sunset to sunrise, or in conditions of restricted visibility, shall display navigation lights as required by the United States Coast Guard. Searchlights or floodlights shall be provided to facilitate safe

navigation and to illuminate working or boarding areas adjacent to the craft.

(6) Decks of pond boats shall be covered with nonslip material. On craft used by workers wearing calked shoes, all areas where the operator or workers must stand or walk shall be made of or be covered with wood or other suitable matting or nonslip material and such covering shall be maintained in good condition.

(7) Each boat shall be provided with a fire extinguisher and life ring with at least fifty feet of one-fourth inch line attached. On log broncs, boom-scooters, or other small boomboats where all occupants are required to wear life saving devices and a life ring would present a tripping hazard, the life ring may be omitted.

Note: For additional requirements relating to portable fire extinguishers see WAC 296-800-300.

(8)(a) Along docks, walkways, or other fixed installations on or adjacent to open water more than five feet deep, approved life rings with at least ninety feet of one-fourth inch line attached, shall be provided. The life rings shall be spaced at intervals not to exceed two hundred feet and shall be kept in easily visible and readily accessible locations.

(b) When employees are assigned work at other casual locations where exposure to drowning exists, at least one approved life ring with at least ninety feet of line attached, shall be provided in the immediate vicinity of the work assigned.

(c) When work is assigned over water where the vertical drop from the accidental fall would exceed fifty feet, special arrangements shall be made with and approved by the department of labor and industries prior to such assignment.

(d) Lines attached to life rings on fixed locations shall be at least ninety feet in length, at least one-fourth inch in diameter, and have a minimum breaking strength of five hundred pounds. Similar lines attached to life rings on boats shall be at least fifty feet in length.

(e) Life rings must be United States Coast Guard approved thirty-inch size.

(f) Life rings and attached lines shall be provided and maintained to retain (~~at least seventy five percent of~~) their (~~designed~~) buoyancy and strength.

(g) Log broncs, boomscoters, and boomboats shall not be loaded with personnel or equipment so as to adversely affect their stability or seaworthiness.

(h) Boats shall not be operated at an excessive speed or handled recklessly.

(i) Boat fuel shall be transported and stored in approved containers. Refer to WAC 296-24-58501(19) for definition of approved.

Purpose: Chapter 296-52 WAC, Safety standards for possession and handling of explosives.

Federal-initiated amendments relating to chapter 296-52 WAC, Safety standards for possession and handling of explosives, were adopted as a result of an Occupational Safety and Health Administration (OSHA) letter dated October 23, 1997. Upon federal review, the state standard was found to be not at-least-as-effective-as the federal rule in regard to black powder and blasting caps.

We are also adopting state-initiated amendments to chapter 296-52 WAC in response to industry request. In 1999, workers in the explosive industry formally asked the department to consider updating and revising the worker safety and health rules that regulate the explosive industry. Industry requested the department to establish the rules for air blast and ground vibration to meet the national standards and to rewrite the licensing requirements for better clarity.

The department convened a group of industry stakeholders to undertake the review of chapter 296-52 WAC. The stakeholders addressed the OSHA letter and their concerns, through assisting in the rewriting of the standard. The rule was rewritten by simplifying the language of the rules and organizing them for ease of use. The adopted amendments are at-least-as-effective-as the federal standard.

WAC 296-52-401 Scope and application.

- The requirements in this section have been moved to WAC 296-52-600.
- This section has been repealed.

WAC 296-52-405 Incorporation of standards of national organizations and federal agencies.

- The requirements in this section have been moved to WAC 296-52-60125.
- This section has been repealed.

WAC 296-52-409 Variance and procedure.

- The requirements in this section have been moved to WAC 296-52-60120.
- This section has been repealed.

WAC 296-52-413 Equipment approval by nonstate agency or organization.

- This section has been repealed.

WAC 296-52-417 Definitions.

- The requirements in this section have been moved to WAC 296-52-60130.
- This section has been repealed.

WAC 296-52-419 Basic legal obligations.

- The requirements in this section have been moved to WAC 296-52-60040.
- This section has been repealed.

WAC 296-52-421 Licenses—Information verification.

- The requirements in this section have been moved to WAC 296-52-61010.
- This section has been repealed.

WSR 02-03-125

PERMANENT RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed January 23, 2002, 9:26 a.m., effective March 1, 2002]

Date of Adoption: January 23, 2002.

PERMANENT

WAC 296-52-423 Revoking or suspending licenses.

- The requirements in this section have been moved to WAC 296-52-60060.
- This section has been repealed.

WAC 296-52-425 Dealer's license.

- The requirements in this section have been moved to WAC 296-52-620.
- This section has been repealed.

WAC 296-52-429 License for manufacturing.

- The requirements in this section have been moved to WAC 296-52-610.
- This section has been repealed.

WAC 296-52-433 Purchaser's license.

- The requirements in this section have been moved to WAC 296-52-630.
- This section has been repealed.

WAC 296-52-437 User's (blaster's) license.

- The requirements in this section have been moved to WAC 296-52-640.
- This section has been repealed.

WAC 296-52-441 Storage magazine license requirements.

- The requirements in this section have been moved to WAC 296-52-660.
- This section has been repealed.

WAC 296-52-445 License and inspections.

- The requirements in this section have been moved to WAC 296-52-610 through 296-52-660.
- This section has been repealed.

WAC 296-52-449 Storage magazine license fee.

- The requirements in this section have been moved to WAC 296-52-61020.
- This section has been repealed.

WAC 296-52-453 Construction of magazines.

- The requirements in this section have been moved to WAC 296-52-700.
- This section has been repealed.

WAC 296-52-457 Storage of caps with other explosives prohibited.

- The requirements in this section have been moved to WAC 296-52-690.
- This section has been repealed.

WAC 296-52-461 Storage of explosives.

- The requirements in this section have been moved to WAC 296-52-690.
- This section has been repealed.

WAC 296-52-465 Storage of ammonium nitrate.

- The requirements in this section have been moved to WAC 296-52-69095.
- This section has been repealed.

WAC 296-52-469 Storage of blasting agents and supplies.

- The requirements in this section have been moved to WAC 296-52-69090.
- This section has been repealed.

WAC 296-52-477 Quantity and distance table for separation between magazines.

- The requirements in this section have been moved to WAC 296-52-69100.
- This section has been repealed.

WAC 296-52-481 Recommended separation distances of ammonium nitrate and blasting agents.

- The requirements in this section have been moved to WAC 296-52-69115.
- This section has been repealed.

WAC 296-52-485 Quantity and distance tables for manufacturing buildings.

- The requirements in this section have been moved to WAC 296-52-69120.
- This section has been repealed.

WAC 296-52-487 Low explosives.

- The requirements in this section have been moved to WAC 296-69125.
- This section has been repealed.

WAC 296-52-489 Transportation.

- The requirements in this section have been moved to WAC 296-52-680.
- This section has been repealed.

WAC 296-52-493 Use of explosives and blasting agents.

- The requirements in this section have been moved to WAC 296-52-670.
- This section has been repealed.

WAC 296-52-497 Blasting agents.

- The requirements in this section have been moved to WAC 296-52-67120.
- This section has been repealed.

WAC 296-52-501 Water gel (slurry) explosives and blasting agents.

- The requirements in this section have been moved to WAC 296-52-67150.
- This section has been repealed.

WAC 296-52-505 Coal mining code unaffected.

- This section has been repealed.

WAC 296-52-509 Small arms ammunitions, primers, propellants and other black powder.

- The requirements in this section have been moved to WAC 296-52-670.
- This section has been repealed.

WAC 296-52-510 Explosives at piers, railways stations, and cars or vessels not otherwise specified in this standard.

- The requirements in this section have been moved to WAC 296-52-710.
- This section has been repealed.

WAC 296-52-550 Appendix I—IME two-compartment transportation units (mandatory).

- This section has been repealed, the requirements can be found in IME publication number 22. The department does not regulate IME regulations.

WAC 296-52-552 Appendix II—Radio frequency warning signs (mandatory).

- The requirements in this section have been moved to WAC 296-52-67060.
- This section has been repealed.

WAC 296-52-555 Appendix III—ATF regulations.

- This section has been repealed.

Part A, Purpose, Scope, and Application.

Moved requirements relating to:

- Exemptions,
- State and local government jurisdictions,
- Basic legal obligations,
- Drug use,
- License revocation, suspension, and surrender,
- Basic hazard precautions,
- Violation appeals,
- Firearms,
- Fire, and
- Definitions.

The adoption adds:

- Requirements extending licensing periods one to two years.
- The licensing fees reflect the proposed two-year licensing period.

Part B, Explosive, Dealer's, Purchaser's, Blaster's, Manufacturer's, and Storage License.

Moved requirements relating to:

- Types of explosive licenses,
- Applicant information,
- Fees,
- Verification of applicant information,
- Applicant participation,
- Criminal records,
- Applicant disqualifications,
- Term of license,
- License renewal,
- Applicant information,
- Prohibited sale/display areas,
- Verification of customer identity,
- Conditions of a purchaser's license,
- Authorized agents,
- Explosives order deliveries,
- Notification—Blaster changes,
- General qualifications,
- Classification qualifications,
- Blaster in charge responsibilities,
- Demonstration of handling and storage experience,
- Conditions of storage license,
- Mobile storage sites,
- Moving, altering, or destroying a licensed magazine,

- Transfer or lease of a magazine or mobile storage site, and
- Reporting changes in conditions.

The adoption adds:

- Requirements for licensing,
- Requirements for blaster's license classifications, qualification requirements, license renewal for list A and B classifications, and renewal for list C classifications, and
- The option to allow a mobile storage "site" to be licensed.

Part C, Use of Explosive Materials.

Moved requirements relating to:

- Blaster in charge responsibilities,
- General use requirements,
- Extraneous electricity and radio frequency (rf) transmitters,
- Vibration and damage control,
- Storage at blast sites,
- Blast area precautions,
- Drilling,
- Loading blast holes,
- Initiation systems,
- Use of safety fuse with detonators,
- Use of detonating cord,
- Firing the blast,
- Precautions after firing,
- Excavation work in pressurized air locks,
- Blasting agents,
- Transportation, storage, and use,
- Fixed location mixing,
- Bulk delivery/mixing vehicles,
- Bulk storage bins,
- Transportation of blasting agents,
- Water-gel and emulsion explosives and blasting agents,
- Fixed location mixing,
- Bulk delivery/mixing vehicles,
- Underwater blasting operations,
- Underground blasting operations,
- Separation distance: Electrical storms,
- Electric initiating systems,
- High speed tunneling: Central primer house, and
- Sample format for a blast record, nonmandatory.

The adoption adds:

- The blaster in charge responsibilities by consolidating them into one location. Some new responsibilities are added for clarification purpose only.
- Requirements for vibration, flyrock, and air blast from the April 1996 Institute of Makers of Explosives (IME) safety library publication #3 are added.
- Requirements from the IME nonelectrical initiation-system requirements.
- Requirements for notifying local jurisdictions when storing explosives, this requirement is equal to BATF.
- Requirements to limit reporting to misfires "not cleared."
- Requirements in a nonmandatory appendix, which contains relevant issues that should be considered

by local jurisdictions developing blasting ordinances.

Part D, Transportation of Explosives Materials.

Moved requirements relating to:

- Safety precautions,
- Transportation of workers,
- Cargo,
- Transportation vehicles,
- Open top vehicles,
- Vehicle placards,
- Vehicle fire protection,
- Operation of vehicles transporting explosives,
- Transporting detonators and explosives in the same vehicle,
- Underground blasting operations,
- Notification—Hoist operator, and
- Underground transportation.

The adoption adds:

- Fire safety requirements for vehicles transporting explosives.

Part E, Storage of Explosive Material.

Moved requirements relating to:

- Detonators,
- Exempt explosives,
- Storage facilities,
- Quantity and distance tables,
- Storage within magazines,
- Storage limits, notification of fire safety authority,
- Magazine repairs,
- Inventory,
- Inspection,
- Surrounding area precautions,
- Deteriorated explosives,
- Explosives recovered from misfires,
- Theft or loss,
- Blast site storage,
- Multiple magazines,
- Blasting agents and supplies, and
- Ammonium nitrate.

The adoption amends:

- Requirements for Table H-20 to be identical to BATF regulations.

Part F, Magazine Construction.

Moved requirements relating to:

- Magazine construction,
- Class 1 Magazine: Permanent storage facilities,
- Class 2 Magazine: Portable field storage,
- Class 3 Magazine: Indoor storage facilities,
- Storage facilities for detonators,
- Class 4 Magazine: Blasting agent, low explosive, or electric detonator storage facilities,
- Class 5 Magazine: Blasting agent storage facilities,
- Explosives day box,
- Detonator day box,
- Heating systems,
- NFPA heating system requirements, and
- Lighting.

Part G, Miscellaneous.

Moved requirements relating to:

- Exemptions,
- Ammunition,
- Small arms smokeless propellants,
- Small arms ammunition primers,
- Black powder,
- Explosives at piers, railway stations, railway cars, and vessels not otherwise specified in this chapter,
- Railway cars,
- Appendix A, Sample explosives—Blasting ordinance for local jurisdictions, nonmandatory, and
- Appendix B.

Citation of Existing Rules Affected by this Order: Repealing WAC 296-52-401 Scope and application, 296-52-405 Incorporation of standards of national organizations and federal agencies, 296-52-409 Variance and procedure, 296-52-413 Equipment approval by nonstate agency or organization, 296-52-417 Definitions, 296-52-419 Basic legal obligations, 296-52-421 Licenses—Information verification, 296-52-423 Revoking or suspending licenses, 296-52-425 Dealer's license, 296-52-429 License for manufacturing, 296-52-433 Purchaser's license, 296-52-437 User's (blaster's) license, 296-52-441 Storage magazine license requirements, 296-52-445 License and inspections, 296-52-449 Storage magazine license fee, 296-52-453 Construction of magazines, 296-52-457 Storage of caps with other explosives prohibited, 296-52-461 Storage of explosives, 296-52-465 Storage of ammonium nitrate, 296-52-469 Storage of blasting agents and supplies, 296-52-477 Quantity and distance table for separation between magazines, 296-52-481 Recommended separation distances of ammonium nitrate and blasting agents, 296-52-485 Quantity and distance tables for manufacturing buildings, 296-52-487 Low explosives, 296-52-489 Transportation, 296-52-493 Use of explosives and blasting agents, 296-52-497 Blasting agents, 296-52-501 Water gel (slurry) explosives and blasting agents, 296-52-505 Coal mining code unaffected, 296-52-509 Small arms ammunitions, primers, propellants and other black powder, 296-52-510 Explosives at piers, railways stations, and cars or vessels not otherwise specified in this standard, 296-52-550 Appendix I—IME two-compartment transportation units (mandatory), 296-52-552 Appendix II—Radio frequency warning signs (mandatory), and 296-52-555 Appendix III—ATF regulations.

Statutory Authority for Adoption: RCW 49.17.010, [49.17].040, and [49.17].050.

Adopted under notice filed as WSR 01-16-145 on August 1, 2001.

Changes Other than Editing from Proposed to Adopted Version: Housekeeping, typographical, and formatting changes have been made for clarity to the rule. The housekeeping and formatting changes did not increase requirements. For a copy of all housekeeping and typographical changes please contact Sally Elliott, WISHA Rules Coordinator, Department of Labor and Industries, P.O. Box 44620, Olympia, WA 98504-4620, phone (360) 902-5484, e-mail yous235@lni.wa.gov.

WITHDRAWN SECTIONS: WAC 296-52-60025 State and local government jurisdictions, 296-52-60040 Basic legal

obligations, 296-52-60070 Basic hazard precautions, 296-52-60110 Miscellaneous, 296-52-62020 Conditions of a dealer's license, 296-52-63015 Conditions of a purchaser's license, 296-52-64010 License classifications, 296-52-64015 License classifications table, 296-52-64025 Classification qualifications, 296-52-64060 Conditions of a blaster's license, 296-52-64070 Blaster in charge responsibilities, 296-52-66025 Conditions of a storage license, 296-52-67005 Responsible person, 296-52-67015 General, 296-52-67120 Blasting agents, 296-52-67150 Water-gel and emulsion explosives and blasting agents, 296-52-67155 General, 296-52-67175 Underwater blasting operations, 296-52-67205 Underground blasting operations, 296-52-67250 Sample format for a blast record, nonmandatory, 296-52-68005 Scope, 296-52-68035 Transportation vehicles, 296-52-68070 Underground blasting operations, 296-52-69075 Theft or loss, 296-52-69100 Quantity and distance tables, 296-52-70075 Heating systems, 296-52-71005 Exemptions, 296-52-71010 Ammunition, 296-52-71030 Small arms smokeless propellants, 296-52-71050 Small arms ammunition primers, 296-52-71070 Black powder, and 296-52-71085 Explosives at piers, railways stations, railway cars, and vessels not otherwise specified in this chapter.

NEW SECTION:

WAC 296-52-60020 Exemptions.

- The department added the explosives classes 1.1, 1.2, 1.3, and 1.4 to clarify the type of explosives.

WAC 296-52-60060 License revocation, suspension, and surrender.

- The department changed the word "will" to "may."

WAC 296-52-61040 Reasons why applicants may be disqualified.

- The department removed the word "not" from the wording.

WAC 296-52-68020 Safety precautions.

- The department changed the wording from "loaded cartridges" to "ammunition".

WAC 296-52-69060 Precautions for areas surrounding magazine.

- The department removed "1.3" and added "1.4" to the wording for clarity.

WAC 296-52-69125 Table H-24—Low explosives

- The department clarified the wording, by indicating storage is restricted to class B or C (1.3 or 1.4), low explosives.

WAC 296-52-70030 Class 3 Magazine: Indoor storage facilities.

- The department changed the wording to 62.5 gram amounts or greater for clarity.

WAC 296-52-70070 Detonator day box.

- The department removed the word "proof" from the wording.

WAC 296-52-71045 Storage.

- The department changed the incorrect references.

WAC 296-52-71065 Storage.

- The department changed the incorrect references.

WAC 296-52-71080 Storage.

- The department changed the incorrect references.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 5, 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 188, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 188, 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 188, Amended 0, Repealed 34.

Effective Date of Rule: March 1, 2002.

January 23, 2002

Gary Moore

Director

Chapter 296-52 WAC

SAFETY STANDARDS FOR POSSESSION, HANDLING, AND USE OF EXPLOSIVES

PART A

PURPOSE, SCOPE, AND APPLICATION

NEW SECTION

WAC 296-52-60005 Implementation of the Washington State Explosives Act. This chapter places into effect the Washington State Explosives Act (chapter 70.74 RCW (Revised Code of Washington)).

NEW SECTION

WAC 296-52-60010 Purpose and intent. The purpose of this chapter is to define minimum requirements for the prevention and control of hazards related to the possession, handling, and use of explosives in order to:

- Protect the safety and health of the general public
- Protect the safety and health of explosive industry employees covered under the Washington Industrial Safety and Health Act (chapter 49.17 RCW)
- Develop, support, and maintain safe and healthy use of explosives in Washington state.

NEW SECTION

WAC 296-52-60015 Coverage. This chapter applies to:

- Any person, partnership, company, corporation, government agency, or other entity

• All aspects of explosives, blasting agents, and pyrotechnics including:

- Manufacture
- Sale
- Possession
- Purchase
- Use
- Storage
- Transportation
- Display fireworks.

Note: Class A and B display fireworks are partially exempt from the requirements of this chapter (see WAC 296-52-60020(5)).

NEW SECTION

WAC 296-52-60020 Exemptions. (1) **The following are exempt from this chapter:**

(a) Explosives or blasting agents transported by railroad, water, highway, or air under the jurisdiction of the Federal Department of Transportation (DOT), the Washington state utilities and transportation commission, and the Washington state patrol.

(b) Laboratories of schools, colleges, and similar institutions if confined to the purpose of instruction or research and if the quantity does not exceed one pound.

(c) Explosives in the forms prescribed by the official United States Pharmacopoeia.

(d) The transportation, storage, and use of explosives or blasting agents in the normal and emergency operations of federal agencies and departments including the regular United States military departments on military reservations and:

- The duly authorized militia of any state or territory
- The emergency operations of any state department or agency
- Any police
- Any municipality or county

(e) A hazardous devices technician when they are carrying out:

- Normal and emergency operations
- Handling evidence
- Operating and maintaining a specially designed emergency response vehicle that carries no more than ten pounds of explosive materials
- When conducting training and whose employer possesses the minimum safety equipment prescribed by the Federal Bureau of Investigation (FBI) for hazardous devices work

Note: A hazardous devices technician is a person who is a graduate of the FBI Hazardous Devices School and who is employed by a state, county, or municipality.

(f) The importation, sale, possession, and use of fireworks, signaling devices, flares, fuses, and torpedoes.

(g) The transportation, storage, and use of explosives or blasting agents in the normal and emergency avalanche control procedures used by trained and licensed ski area operator personnel. However, the storage, transportation, and use of explosive and blasting agents for such use must meet the

requirements in chapter 296-59 WAC, Safety standards for ski operations.

Note: The purpose of this chapter is to protect the public by enabling ski area operators to exercise appropriate avalanche control measures. The legislature finds that avalanche control is of vital importance to safety in ski areas and that the provisions of the Washington State Explosives Act contain restrictions, which do not reflect special needs for the use of explosives as a means of clearing an area of serious avalanche risks. This act recognizes these needs while providing for a system of regulations designed to make sure that the use of explosives for avalanche control conforms to fundamental safety requirements.

(h) Any violation under this chapter if any existing ordinance of any city, municipality, or county is more stringent.

(2) **Noncommercial military explosives.** Storage, handling, and use of noncommercial military explosives are exempt from this chapter while they are under the control of the United States government or military authorities.

(3) **Import, sale, possession, or use of:**

- Consumer fireworks
- Signaling devices
- Flares
- Fuses
- Torpedoes

(4) **Class C consumer fireworks.** Fireworks classified as Class C explosives by U.S. DOT (Division 1.4) and regulated through the State fireworks law (chapter 70.77 RCW) and the fireworks administrative code (chapter 212-17 WAC) by the Washington state fire marshal.

Note: Consumer fireworks are classified as fireworks UN0336 and UN0337 by U.S. DOT (49 CFR 72.101).

(5) **Partial exemption—Class A and B display fireworks.** Display fireworks are fireworks classified as Class A or B explosives by US DOT (International Designations 1.1, 1.2, or 1.3). Users of Class A and B display fireworks must comply with all storage or storage related requirements (for example, licensing, construction, and use) of this chapter.

Note: Display fireworks are classified as fireworks UN0333, UN0334, or UN0335 by U.S. DOT (49 CFR 172.101).

(6) **Conditional exemption small arms explosive materials.** Public consumers possessing and using:

- Black powder, under five pounds
- Smokeless powder, under fifty pounds
- Small arms ammunition
- Small arms ammunition primers
- Unless these materials are possessed or used illegally or for a purpose inconsistent with small arms use.

STATE AND LOCAL GOVERNMENT JURISDICTIONS

NEW SECTION

WAC 296-52-60030 The department. (1) **Administration and enforcement.** The director of labor and industry administers and enforces all activities governed by the Washington State Explosives Act through chapter 296-52 WAC using the full resources of the department.

(2) **Authority to enter, inspect, and issue penalties.** The department may enter and inspect any location, facility, or equipment and issue penalties for any violation whenever the director has reasonable cause to think there are:

- Explosives
- Blasting agents
- Explosive materials

(3) **Unlicensed activities.** Whenever the director requests an unlicensed person to surrender explosives, improvised devices, or their component parts, he may request the attorney general to apply to the county superior court in which the illegal practice was carried out for a temporary restraining order or other appropriate assistance.

NEW SECTION

WAC 296-52-60035 Other government entities. (1) Law enforcement authorities. The department:

- Acknowledges the legal obligation of other law enforcement agencies to enforce specific aspects or sections of the Washington State Explosives Act under local ordinances and with joint and shared authority granted by RCW 70.74.201
- Will cooperate with all other law enforcement agencies in carrying out the intent of the Washington State Explosives Act and chapter 296-52 WAC

(2) **Local government authorities.**

(a) This chapter does not prevent local jurisdictions from adopting and administering local regulations relating to explosives. Examples of local jurisdictions/regulations include:

- City or county government explosive ordinances
- Other government authorities such as the Washington utilities and transportation commission, the Washington state patrol, or Washington administrative codes.

(b) Local regulations must not diminish or replace any regulation of this chapter.

Note: A nonmandatory sample-blasting ordinance for local jurisdictions is included in Appendix B.

BASIC LEGAL OBLIGATIONS

NEW SECTION

WAC 296-52-60045 Responsibility to obtain an explosives license. Anyone manufacturing, purchasing, selling, offering for sale, using, possessing, transporting, or storing any explosive, improvised device, or components intended to be assembled into an explosive or improvised device must have a valid license issued by the department.

NEW SECTION

WAC 296-52-60050 Unlicensed activities. Upon notice from the department or any law enforcement agency having jurisdiction, an unlicensed person manufacturing, offering for sale, selling, possessing, purchasing, using, storing, or transporting any explosives, improvised device, or components of explosives or improvised devices must immediately

surrender those explosive materials to the department or the law enforcement agency having jurisdiction.

NEW SECTION

WAC 296-52-60055 Drug use. Explosives must not be handled by anyone under the influence of:

- Alcohol
- Narcotics
- Prescription drugs and/or narcotics that endanger the worker or others
- Other dangerous drugs

Note: This chapter does not apply to persons taking prescription drugs and/or narcotics as directed by a physician provided their use will not endanger the blaster, workers, or any other people.

NEW SECTION

WAC 296-52-60060 License revocation, suspension, and surrender. (1) Revocation. The department:

(a) Will revoke and not renew the manufacturer, dealer, purchaser, blaster, or storage license of any person as a result of a disqualifying condition identified in WAC 296-52-61040, Applicant disqualifications.

(b) May revoke the license of any person who has:

- (i) Repeatedly violated the requirements of this chapter
- (ii) Had a license suspended twice under this chapter

(2) **Suspension.** The department may suspend the license of any person for a period up to six months for any violation of this chapter.

(3) **Surrender.** Revoked or suspended licenses must be surrendered immediately to the department after the chapter violators have been notified.

NEW SECTION

WAC 296-52-60065 Violation appeals. An appeal of a citation, issued for a violation of a requirement of this chapter, which results in a license suspension or revocation (WAC 296-52-60060) may be filed with the department.

BASIC HAZARD PRECAUTIONS

NEW SECTION

WAC 296-52-60075 Hazards to life. Explosives or blasting agents must not be stored, handled, or transported if they could create a hazard to life.

NEW SECTION

WAC 296-52-60080 Entry and access to explosive areas. Only the owner, owner's authorized agent, the director, or law enforcement officer(s) acting in an official capacity may enter into an:

- Explosives manufacturing building
- Magazine
- Vehicle
- Other common carrier containing explosives.

NEW SECTION

WAC 296-52-60085 Abandonment of explosives. Explosives or improvised devices must not be abandoned.

NEW SECTION

WAC 296-52-60090 Firearms. Firearms cannot be discharged at or against any:

- (1) Magazine.
- (2) Explosives manufacturing building.
- (3) Explosives material.

NEW SECTION

WAC 296-52-60095 Fire. (1) Magazines/buildings. Flame or flame producing devices must not be ignited within fifty feet of any magazine or explosives manufacturing building.

(2) Explosives handling.

(a) All sources of fire or flame, including smoking and matches, are prohibited within one hundred feet of the blast site while explosives are being handled or used.

(b) Explosives must not be handled near:

- (i) Open flames
- (ii) Uncontrolled sparks

OR

(iii) Energized electric circuits

(3) **Fire incident precautions.** In the event of a fire:

- (a) All employees must be removed to a safe area
- (b) The fire area must be guarded against intruders
- (c) The fire must not be fought where there is danger of contact with explosives.

NEW SECTION

WAC 296-52-60100 Daylight blasting. Blasting operations must be conducted during daylight hours whenever possible.

NEW SECTION

WAC 296-52-60105 Notification—Blasting near utilities. Whenever blasting is being conducted in the vicinity of gas, electric, water, fire alarm, telephone, telegraph, and steam utilities, the blaster in charge must notify appropriate utility representatives:

- (1) At least twenty-four hours in advance of blasting.
- (2) Of the specific location and intended time of blasting.
- (3) To confirm the verbal notice with a written notice.

MISCELLANEOUSNEW SECTION

WAC 296-52-60115 Explosive industry employers. In addition to the requirements of this chapter:

- (1) Explosive industry employers must comply with other applicable WISHA requirements:
 - Chapter 296-800 WAC, Safety and health core rules

- Chapter 296-24 WAC, General safety and health standards
 - Chapter 296-62 WAC, General occupational health standards
 - Chapter 296-155 WAC, Safety standards for construction
 - Other industry specific standards that may apply
- (2) Manufacturers of explosives or pyrotechnics must comply with WISHA safety standards for process safety management of highly hazardous chemicals, chapter 296-67 WAC.

NEW SECTION

WAC 296-52-60120 Variance from a chapter requirement. The director may approve a variance from a chapter requirement pursuant to RCW 49.17.080 or 49.17.090:

- After an application for a variance is received,
- After the department has conducted an investigation,
- When conditions exist that make the requirement impractical to use, and
- When equivalent means of protection are provided.

Note: Variance application forms may be obtained from and should be submitted to: Department of Labor and Industries, WISHA Services Division, Post Office Box 44650, Olympia, WA 98504-4650.

NEW SECTION

WAC 296-52-60125 Using standards from national organizations and federal agencies. To be in compliance with WISHA rules, the information provided in this section must be followed when safety and health standards from national organizations and federal agencies are referenced in WISHA rules.

- The edition of the standard specified in the WISHA rule must be used.
- Any edition published after the edition specified in the WISHA rule may be used.

Note: The federal and national consensus standards referenced in the WISHA rules are available through the issuing organization and the local or state library.

NEW SECTION

WAC 296-52-60130 Definitions. American Table of Distances means the American Table of Distances for Storage of Explosives as revised and approved by Institute of the Makers of Explosives (IME).

Approved storage facility means a facility for the storage of explosive materials which is in compliance with the following chapter:

- Storage licensing (WAC 296-52-660)
- Storage of explosive materials (WAC 296-52-690)
- Magazine construction (WAC 296-52-700).

Attend means the physical presence of an authorized person who stays in view of the explosives.

Authorized, approved, or approval means authorized, approved, or approval by:

- The department
- Any other approving agency
- An individual as specified in this chapter.

Authorized agent means a person delegated by a licensed purchaser, who possesses a basic knowledge of explosives handling safety, to order and receive explosives on the purchaser's behalf.

Authorized agent list means a current list of agents the purchaser has authorized to order or receive explosives on their behalf.

Authorized person means a person approved or assigned by an employer, owner, or licensee to perform a specific type of duty or be at a specific location at the job site.

Barricades

• **Barricade** means effectively screening a building containing explosives by means of a natural or artificial barrier from a magazine, another building, a railway, or highway.

• **Artificial barricade** means a barricade of such height that a straight line from the top of any sidewall of the building containing explosives to the eave line of any magazine or other building or to a point twelve feet above the center of a railway or highway shall pass through such barrier, an artificial mound or properly revetted wall of earth with a minimum thickness of three feet.

• **Natural barricade** means any natural hill, mound, wall, or barrier composed of earth, rock, or other solid material at least three feet thick.

BATF means the Bureau of Alcohol, Tobacco, and Firearms.

Blast area means the area of a blast that is effected by:

- Flying rock missiles
- Gases
- Concussion.

Blast pattern means the plan of the drill holes laid out and a display of the burden distance, spacing distance, and their relationship to each other.

Blast site means the area where explosive material is handled during loading and fifty feet in all directions from loaded blast holes or holes to be loaded.

Blaster means a person trained and experienced in the use of explosives and licensed by the department.

Blaster in charge means a licensed blaster who is:

- Fully qualified, by means of training and experience in explosives use
- Adequately trained, experienced, and capable of recognizing hazardous conditions throughout the blast area
- In charge of:
 - The blast process
 - All aspects of explosives and blasting agent storage, handling, and use as recommended by the manufacturer and as required by this chapter
 - In a position of authority:
 - To take prompt corrective action in all areas of the blast operation
 - Over all other blasters at the blast area

Blasting agent means any material or mixture consisting of a fuel and oxidizer:

- That is intended for blasting

- That is not otherwise classified as an explosive
- Where none of the ingredients are classified as an explosive,

– Provided, the finished product, as mixed and packaged for use or shipment, cannot be detonated when unconfined by means of a Number 8 test detonator

Blockholing means the breaking of boulders by firing a charge of explosives that has been loaded in a drill hole.

Competent person means a person who:

- Is capable of identifying existing hazardous and the forecasting of hazards of working conditions which might be unsanitary or dangerous to personnel or property
- Has authorization to take prompt corrective action to eliminate such hazards.

Consumer fireworks means:

- Any small firework device:
 - Designed to produce visible effects by combustion
 - That must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission (Title 16 CFR, Parts 1500 and 1507),
 - A small device designed to produce audible effects which include, but are not limited to:
 - Whistling devices
 - Ground devices containing 50 mg or less of explosive materials
 - Aerial devices containing 130 mg or less of explosive materials

Note: Fused set pieces containing components, which, together, exceed 50 mg of salute powder are not included.

Conveyance means any unit used for transporting explosives or blasting agents, including, but not limited to:

- Trucks
- Trailers
- Rail cars
- Barges
- Vessels.

Day box means a box which:

- Is a temporary storage facility for storage of explosive materials
- Is not approved for unattended storage of explosives
- May be used at the worksite during working hours to store explosive materials, provided the day box is:
 - Constructed as required (WAC 296-52-70065, Explosives day box),
 - Marked with the word "explosives"
 - Used in a manner that safely separates detonators from other explosives
 - Guarded at all times against theft

Dealer means any person who purchases explosives or blasting agents for the sole purpose of resale and not for use or consumption.

Detonating cord means a round flexible cord containing a center core of high explosive and used to initiate other explosives.

Detonator means any device containing any initiating or primary explosive that is used for initiating detonation and includes, but is not limited to:

- Electric detonators of instantaneous and delay types

- Detonators for use with safety fuses, detonating cord delay connectors, and nonelectric instantaneous delay detonators which use detonating cord, shock tube, or any other replacement for electric leg wires.

Discharge hose means a hose with an electrical resistance high enough to limit the flow of stray electric currents to safe levels, but not high enough to prevent drainage of static electric charges to the ground. Hose not more than 2 megohms resistance over its entire length and of not less than 5,000 ohms per foot meets the requirement.

Display fireworks means large fireworks:

- Designed primarily to produce visible or audible effects by combustion, deflagration, or detonation, and include, but are not limited to:

- Salutes containing more than 2 grains (130 mg) of explosive materials

- Aerial shells containing more than 40 grams of pyrotechnic compositions

- Other display pieces, which exceed the limits of explosive materials for classification as "consumer fireworks"

- Fused set pieces containing components, which together exceed 50 mg of salute powder

Electric detonator means a blasting detonator designed for and capable of detonation by means of electric current.

Electric blasting circuitry consists of these items:

- **Bus wire.** An expendable wire used in parallel or series, or in parallel circuits, which are connected to the leg wires of electric detonators.

- **Connecting wire.** An insulated expendable wire used between electric detonators and the leading wires or between the bus wire and the leading wires.

- **Leading wire.** An insulated wire used between the electric power source and the electric detonator circuit.

- **Permanent blasting wire.** A permanently mounted insulated wire used between the electric power source and the electric detonator circuit.

Electric delay detonators means detonators designed to detonate at a predetermined time after energy is applied to the ignition system.

Emulsion means an explosive material containing:

- Substantial amounts of oxidizer dissolved in water droplets, surrounded by an immiscible fuel

- Droplets of an immiscible fuel surrounded by water containing substantial amounts of oxidizer.

Explosives means:

- Any chemical compound or mechanical mixture:
 - Commonly intended or used for the purpose of producing an explosion

- That contains any oxidizing and combustible units or other ingredients in proportions, quantities or packing that an ignition by fire, friction, concussion, percussion, or detonation of any part of the compound or mixture may cause sudden generation of highly heated gases resulting in gaseous pressures capable of producing destructive effects on contiguous objects or of destroying life or limb

- All material classified as Class A, Class B, and Class C explosives by U.S. DOT

- For the purposes of public consumer use, the following are not considered explosives unless they are possessed or used for a purpose inconsistent with small arms use or other legal purposes:

- Small arms ammunition

- Small arms ammunition primers

- Smokeless powder, not exceeding fifty pounds

- Black powder, not exceeding five pounds

Explosive actuated power devices means any tool or special mechanized device, which is activated by explosives and does not include propellant actuated power devices.

Explosives classifications. Explosives classifications include, but are not limited to:

- Class A (Division 1.1) explosives (possessing detonating hazard):

- Dynamite

- Nitroglycerin

- Picric acid

- Lead azide

- Fulminate of mercury

- Black powder (exceeding 5 pounds)

- Detonators (in quantities of 1,001 or more)

- Detonating primers

- Class B (Division 1.2 and Division 1.3) explosives (possessing flammable hazard):

- Propellant explosives

- Smokeless propellants (exceeding fifty pounds)

- Class C (Division 1.4) explosives.

- Certain types of manufactured articles, which contain Class A and/or Class B explosives as compounds (but in restricted quantities)

- Detonators (in quantities of 1,000 or less)

Explosives exemption. The exemption for small arms ammunition, small arms ammunition primers, smokeless powder, not exceeding fifty pounds, and black powder, not exceeding five pounds:

- Applies to public consumer use only

- Does not apply to the employer employee relationship covered under the Washington Industrial Safety and Health Act.

Explosives international markings.

- The department will accept U.S. DOT and/or BATF international identification markings on explosives and/or explosives containers or packaging

- This exception is under the authority of RCW 70.74.020(3) and in lieu of Washington state designated markings (as defined by RCW 70.74.010(4) (Class A, B, or C) and required by RCW 70.74.300).

Explosives manufacturing building means any building or structure, except magazines:

- Containing explosives where the manufacture of explosives, or any processing involving explosives, is conducted

- Where explosives are used as a component part or ingredient in the manufacture of any article or device.

Explosives manufacturing plant means all lands with buildings used:

- In connection with the manufacturing or processing of explosives

- For any process involving explosives

- For the storage of explosives
- To manufacture any article or device where explosives are used as a component part or ingredient in the article or device.

Fireworks means any composition or device:

- Designed to produce a visible or an audible effect by combustion, deflagration, or detonation
- Which meets the definition of "consumer fireworks" or "display fireworks."

Forbidden or not acceptable explosives means explosives which are forbidden or not acceptable for transportation by common carriers by rail freight, rail express, highway, or water in accordance with the regulations of the Federal Department of Transportation (DOT).

Fuel means a substance, which may react with oxygen to produce combustion.

Fuse (safety). See "safety fuse."

Fuse lighters means special devices used for the purpose of igniting safety fuses.

Handler means any individual who handles explosives or blasting agents for the purpose of transporting, moving, or assisting a licensed blaster in loading, firing, blasting, or disposal.

Note: This does not include employees of a licensed manufacturer engaged in manufacturing process, drivers of common carriers, or contract haulers.

Hand loader means any person who engages in the non-commercial assembly of small arms ammunition for personal use; specifically, any person who installs new primers, powder, and projectiles into cartridge cases.

Highway means roads, which are regularly and openly traveled by the general public and includes public streets, alleys, roads, or privately financed, constructed, or maintained roads.

Improved device means a device, which is:

- Fabricated with explosives
- Fabricated with destructive, lethal, noxious, pyrotechnic, or incendiary chemicals, and designed to disfigure, destroy, distract, and harass.

Inhabited building means:

- A building which is regularly occupied, in whole or in part, as a habitat for human beings
- Any church, schoolhouse, railroad station, store, or other building where people assemble.

Note: This does not mean any building or structure occupied in connection with the manufacture, transportation, storage, or use of explosives.

Low explosives means explosive materials, which can be caused to deflagrate when, confined. This includes:

- Black powder, safety fuses, igniters, igniter cords, fuse lighters, and display fireworks defined as Class B explosives by U.S. DOT (49 CFR Part 173).

Note: This does not apply to bulk salutes.

Magazine means any building, structure, or container approved for storage of explosive materials.

Note: This does not apply to an explosive manufacturing building.

Manufacturer means any person, partnership, firm, company, or corporation who manufactures explosives or

blasting agents, or use any process involving explosives as a component part in the manufacture of any device, article, or product.

EXEMPTIONS: The following exemptions are restricted to materials and components, which are not classified (by U.S. DOT) as explosives until after they are mixed. With this restriction, the definition of manufacturer *does not* include:

- Inserting a detonator into a cast booster or a stick of high explosive product to make a primer for loading into a blast hole
- The act of mixing on the blast site, either by hand or by mechanical apparatus, binary components, ammonium nitrate, fuel oil, and/or emulsion products to create explosives for immediate down blast hole delivery.

Misfire means the complete or partial failure of an explosive charge to explode as planned.

Mudcap (also known as bulldozing and bodying) means covering the required number of cartridges that have been placed on top of a boulder with a three or four-inch layer of mud, which is free from rocks or other material that could cause a missile hazard.

Nonelectric delay detonator means a detonator with an integral delay element in conjunction with and capable of being detonated by a:

- Detonation impulse
- Signal from miniaturized detonating cord
- Shock tube.

Oxidizer means a substance that yields oxygen readily to stimulate the combustion of organic matter or other fuel.

Permanent magazines means magazines that:

- Are fastened to a foundation
- Do not exceed permanent magazine capacity limits (RCW 70.74.040)
- Are approved and licensed
- Are left unattended.

Person means any individual, firm, partnership, corporation, company, association, or joint stock association or trustee, receiver, assignee, or personal representative of that entity.

Person responsible, for an explosives magazine, means:

- The person legally responsible for a magazine that actually uses the magazine
- The person is responsible for the proper storage, protection, and removal of explosives, and may be the owner lessee, or authorized operator.

Portable (field) magazines means magazines that are:

- Designed to be unattended
- Not permanently fastened to a foundation
- Constructed or secured to make sure they cannot be lifted, carried, or removed easily by unauthorized persons
- Limited to the capacity of explosives required for efficient blasting operation
- Approved and licensed.

Possess means the physical possession of explosives in one's hand, vehicle, magazine, or building.

Primary blasting means the blasting operation that dislodged the original rock formation from its natural location.

Primer means a unit, package, cartridge, or container of explosives inserted into or attached to a detonator or detonating cord to initiate other explosives or blasting agents.

Propellant actuated power device means any tool, special mechanized device, or gas generator system, which is actuated by a propellant and releases and directs work through a propellant charge.

Public utility transmission systems means:

- Any publicly owned systems regulated by:
 - The utilities and transportation commission
 - Municipalities
 - Other public regulatory agencies, which include:
 - Power transmission lines over 10 kV, telephone cables, or microwave transmission systems
 - Buried or exposed pipelines carrying water, natural gas, petroleum, or crude oil or refined products and chemicals

Purchaser means any person who buys, accepts, or receives explosives or blasting agents.

Pyrotechnics, commonly referred to as fireworks, means any combustible or explosive compositions or manufactured articles designed and prepared for the purpose of producing audible or visible effects.

Qualified person means a person who has successfully demonstrated the ability to solve or resolve problems relating to explosives, explosives work, or explosives projects by:

- Possession of a recognized degree or certificate
- Professional standing
- Extensive knowledge, training, and experience.

Railroad means any type of railroad equipment that carries passengers for hire.

Safety fuse (for firing detonators) means a flexible cord containing an internal burning medium by which fire is conveyed at a continuous and uniform rate.

Secondary blasting means using explosives, mudcapping, or blockholing to reduce oversize material to the dimension required for handling.

Shock tube means a small diameter plastic tube:

- Used for initiating detonators
- That contains a limited amount of reactive material so energy, transmitted through the tube by means of a detonation wave, is guided through and confined within the walls of the tube.

Small arms ammunition means any shotgun, rifle, pistol, or revolver cartridge, and cartridges for propellant actuated power devices and industrial guns.

Note: This does not mean military type ammunition containing explosive bursting incendiary, tracer, spotting, or pyrotechnic projectiles.

Small arms ammunition primers means small percussion sensitive explosive charges encased in a detonator or capsule used to ignite propellant power or percussion detonators used in muzzle loaders.

Smokeless propellants means solid chemicals or solid chemical mixtures that function by rapid combustion.

Special industrial explosive devices means explosive actuated power devices and propellant-actuated power devices.

Special industrial explosives materials means shaped materials and sheet forms and various other extrusions, pellets, and packages of high explosives, which include:

- Dynamite
- Trinitrotoluene (TNT)
- Pentaerythritol tetranitrate (PETN)
- Hexahydro-1, 3, 5-trinitro-s-triazine (RDX)
- Other similar compounds used for high-energy-rate forming, expanding, and shaping in metal fabrication, and for dismemberment and quick reduction of scrap metal.

Springing means the creation of a pocket in the bottom of a drill hole by the use of a moderate quantity of explosives so that larger quantities of explosives may be inserted.

Sprung hole means a drilled hole that has been enlarged by a moderate quantity of explosives to allow for larger quantities of explosives to be inserted into the drill hole.

Stemming means a suitable inert incombustible material or device used to confine or separate explosives in a drill hole or cover explosives in mudcapping.

Trailer means semi-trailers or full trailers, as defined by U.S. DOT, which are:

- Built for explosives
- Loaded with explosives
- Operated in accordance with U.S. DOT regulations.

U.S. DOT means the United States Department of Transportation.

Vehicle means any car, truck, tractor, semi-trailer, full trailer, or other conveyance used for the transportation of freight.

Water-gels or emulsion explosives. These explosives:

- Comprise a wide variety of materials used for blasting. Two broad classes of water-gels are those which:
 - Are sensitized by material classed as an explosive, such as TNT or smokeless powder
 - Contain no ingredient classified as an explosive which are sensitized with metals, such as aluminum, or other fuels
 - Contain substantial proportions of water and high proportions of ammonium nitrate, some ammonium nitrate is in the solution in the water, and may be mixed at an explosives plant, or the blast site immediately before delivery into the drill hole.

PART B EXPLOSIVE LICENSING

NEW SECTION

WAC 296-52-61005 Types of explosive licenses.

Type of License	Where to Look for Requirements
Dealer's	WAC 296-52-620
Purchaser's	WAC 296-52-630
Blaster's	WAC 296-52-640
Manufacturer's	WAC 296-52-650
Storage	WAC 296-52-660

NEW SECTION

WAC 296-52-61010 License applicants must provide this information. (1) Applicants must provide the following information to the department:

- An individual must provide:
 - Their name, address, and citizenship.
- A partnership must provide:
 - The name, address, and citizenship for each partner
 - The name and address of the applicant.
- An association or corporation must provide:
 - The name, address, and citizenship for each officer and director
 - The name and address of the applicant.

(2) Applicants must:

- Meet the requirements of WAC 296-52-610, Explosives licensing
 - Meet any license specific requirements
 - Provide their Social Security number (RCW 26.23.150)
 - Provide any information requested by the department before a new or renewal license will be issued.

NEW SECTION

WAC 296-52-61015 License applicants must complete department forms. Applications must be completed on department forms.

• License application forms may be obtained from and submitted to:

Department of Labor and Industries, WISHA Services Division
 Post Office Box 44655,
 Olympia, WA 98504-4655.

Note: Purchaser and blaster license applications may also be obtained from explosive dealers or department service locations. (You will find a complete list of L&I service locations at www.lni.wa.gov.)

NEW SECTION

WAC 296-52-61020 License fees. Applicable license fees must be included with new or renewal explosives license applications.

Type of License	Fee
Dealer's License	50.00
Purchaser's License	10.00
Blaster's License	10.00
Manufacturer's License	50.00
Storage License	(See table below)

PERMANENT

Explosive Materials STORAGE LICENSE FEES <i>RCW 70.74.140 applies</i>			
EXPLOSIVES Maximum Weight (pounds) of explosives permitted in each magazine or mobile site.	DETONATORS Maximum Number of detonators permitted in each magazine or mobile site.	FEE (for each magazine or mobile site)	
		Annual	Every Two Years
200	133,000	10.00	20.00
1,000	667,000	25.00	50.00
5,000	3,335,000	35.00	70.00
10,000	6,670,000	45.00	90.00
50,000	33,350,000	60.00	120.00
300,000	200,000,000	75.00	150.00

Note: License fees will not be refunded when a license is revoked or suspended for cause.

NEW SECTION

WAC 296-52-61025 Verification of applicant information. The department will verify license application statements before an explosives license is issued.

NEW SECTION

WAC 296-52-61030 Applicant participation. Applicants:

• Must cooperate and assist the department in all aspects of the application review

• Must provide all information requested by the department to:

- Verify application statements
- Help with any questions
- Must furnish their fingerprints to the department on department forms

– Fingerprinting and criminal history record information checks are required for management officials directly responsible for explosives operations

• May be required to pay a fee to the law enforcement agency providing fingerprint research services (RCW 70.74.360).

NEW SECTION

WAC 296-52-61035 Criminal records. The Washington state patrol will provide any criminal records to the director upon request.

NEW SECTION

WAC 296-52-61040 Reasons why applicants may be disqualified. Licenses will not be issued for the manufacture, retail sale, purchase, storage, or use of explosives to any applicant:

- Under twenty-one years of age
- Whose license is suspended or revoked, except as provided in this section
- Convicted in this state or elsewhere of:
 - A violent offense (RCW 9.94A.030)
 - Perjury
 - Providing false information (false swearing)
 - Bomb threats
 - A crime involving a Schedule I or II Controlled Substance (chapter 69.50 RCW)
 - Any other drug or alcohol related offense (unless the offense is not related to drug or alcohol dependency).

Note: A license may be issued to an applicant with a drug or alcohol dependency history:

- Who is participating in, or has completed, treatment in an alcohol or drug recovery program
- Has established control of their alcohol or drug dependency
- Provides proof to the department of participation in a recovery program and control over their dependency
- Legally determined at the time of application to be:
 - Mentally ill
 - Insane
 - Incompetent due to any mental disability or disease at the time of application

Note: The department will not reissue a license until competency has been legally restored.

- Physically ill or disabled, and cannot use explosives safely. Disqualifying disabilities may include, but are not limited to:

- Blindness
- Deafness
- Epileptic or diabetic seizures or coma.

Note: The department will not reissue a license until the applicant's physical ability is verified by a qualified physician through the appeal process (WAC 296-52-60065, Violation appeals).

NEW SECTION

WAC 296-52-61045 License terms. All licenses, including storage licenses, are valid for two years from the date of issue, unless revoked or suspended by the department prior to the expiration date.

NEW SECTION

WAC 296-52-61050 License renewal. An explosives license must be renewed before the expiration date of the license.

DEALER'S LICENSENEW SECTION

WAC 296-52-62005 Responsibility to obtain a dealer's license. Any person, firm, partnership, corporation, or public agency wanting to purchase explosives (including black powder and blasting agents) for resale, must have a valid dealer's license issued by the department.

NEW SECTION

WAC 296-52-62010 Dealer applicant information. The dealer applicant must:

- Give the reason they want to participate in the business of dealing in explosives
- Provide information required by WAC 296-52-610, Explosives licensing
- Provide other pertinent information required by the department.

NEW SECTION

WAC 296-52-62025 Prohibit explosives items from sale or display in these areas. Explosives, improvised devices, or blasting agents cannot be sold, displayed, or exposed for sale on any:

- Highway
 - Street
 - Sidewalk
 - Public way
- OR**
- Public place.

NEW SECTION

WAC 296-52-62030 Container labeling. Any package, cask, or can containing any explosive, nitroglycerin, dynamite, or black and/or smokeless powder put up for sale or delivered to any warehouse worker, dock, depot, or common carrier, must be properly labeled with its explosive classification.

NEW SECTION

WAC 296-52-62035 Authorized agent information. A dealer must make sure the purchaser provides a list of people on their authorized agent list with the following information:

- Name
- Address
- Driver's license number or valid identification
- Social Security number (as required by RCW 26.23.150)
- Place of birth
- Date of birth.

NEW SECTION**WAC 296-52-62040 Verification of customer identity. (1) Orders.**

(a) An order for explosives can be placed:

- In person
- By telephone

OR

- In writing

(b) The dealer must receive proper authorization and identification from the person placing the order to verify the person is either the:

- Purchaser

OR

- Purchaser's authorized agent

Note: This requirement does not apply to licensed common carrier companies when the common carrier:

- Is transferring explosive materials from the seller to the purchaser

AND

- Complies with transfer practices of the state and federal U.S. DOT regulations.

(2) **Deliveries.** The dealer must:

(a) Not distribute explosive materials to an unauthorized person.

(b) Make sure the recipient is the purchaser or the purchaser's authorized agent.

(c) Verify the recipient's identity from a photo identification card (for example, driver's license).

(d) Obtain the:

(i) Purchaser's magazine license number when explosives are delivered to a storage magazine.

(ii) Legal signature of the purchaser or the purchaser's authorized agent on a receipt documenting the explosives were received.

NEW SECTION**WAC 296-52-62045 Recordkeeping and reporting.**(1) **Sale documentation.** A dealer must document the following information when an explosive materials order is placed. A dealer's record must include the:

- Date explosive materials were sold
- Purchaser's name and license number
- Name of the person authorized by the purchaser to physically receive the explosive materials
- Kind of explosive materials sold
- Amount of explosive materials sold
- Date code

Note: Black powder sales less than five pounds are not required to be reported to the department.(2) **Retention of records and receipts.** Dealers must keep:

- Signed receipts for a minimum of one year from the date explosives were purchased
- Records of explosives purchased and sold for a minimum of five years

(3) **Monthly report.**

• A monthly report of the dealer's records must be submitted to the department at the following address:

Department of Labor and Industries

WISHA Services Division

Post Office Box 44655

Olympia, WA 98504-4655

• Dealer records must be received by the 10th day of each month.

PURCHASER'S LICENSENEW SECTION**WAC 296-52-63005 How to obtain a purchaser's license.** Any person, firm, partnership, corporation, or public agency wanting to purchase explosives or blasting agents must have a valid purchaser's license issued by the department.NEW SECTION**WAC 296-52-63010 Applicant information.** Applicants must provide the following information to the department:

- The reason explosives or blasting agents will be used
- The location where explosives or blasting agents will be used
- The kind of explosives or blasting agents to be used
- The amount of explosives or blasting agents to be used
- An explosives storage plan:
 - Documenting proof of ownership of a licensed storage magazine

OR

– With a signed authorization to use another person's licensed magazine

OR

– With a signed statement certifying that the explosives will not be stored

- An authorized agent list, if the purchaser chooses to authorize others to order or receive explosives on their behalf
- The identity and current license of the purchaser's blaster

• Information required by WAC 296-52-610, Explosives licensing

• Any other pertinent information requested by the department.

NEW SECTION**WAC 296-52-63020 Authorized agents. (1) Required information.**

The purchaser must provide the following written information for people on their authorized agent list:

- Legal name
- Address
- Driver's license number or other valid identification
- Date of birth
- Place of birth.

(2) **List distribution.** The purchaser must provide a current authorized agent list to:

- The department when applying for a new or renewal license
- Any dealer the purchaser plans to order explosive materials from, prior to placing the order.

(3) **Notification of list changes.** The purchaser must make sure the dealer's and department's authorized agent lists are updated as changes occur.

NEW SECTION

WAC 296-52-63025 Explosive order deliveries. (1) Receiver identification. Any person receiving explosives purchased from a dealer must:

- Provide proper identification and prove to the satisfaction of the dealer that they are:
 - The purchaser
- OR**
- Their authorized agent
- Sign their legal signature on the dealer's receipt.

(2) **Delivery locations.** Explosives must be delivered into:

- Authorized magazines
 - Approved temporary storage
- OR**
- Handling areas.

NEW SECTION

WAC 296-52-63030 Notify the department of blaster changes. The purchaser must:

- Notify the department when the licensed blaster changes
- Provide their current blaster's license number to the department.

BLASTER'S LICENSE

NEW SECTION

WAC 296-52-64005 Responsibility to obtain a blaster's license. No one may conduct a blasting operation without a valid blaster's license issued by the department.

Note: A blaster's license is not required for a "hand loader."

Blaster license classifications table. The following information shows classification for blasting licenses.

- **Classification list assignment.** Classification list assignment is determined by the use of single or multiple series charges; and the knowledge, training, and experience required to perform the type of blasting competently and safely.

- **Multiple list applications.** When an applicant wants to apply for multiple classifications and the classifications desired are from two or more classification table lists:

- All classifications must be requested on the application
- Qualifying documentation for all classifications being applied for must be included in the applicant's resume (WAC 296-52-64050, Applicant information). Training and experience may fulfill qualification requirements in multiple classifications.

- **Request classifications not lists.** Applicants must request specific classifications (not list designations) on their blaster application. Licenses are not issued or endorsed for Classification Table lists A, B, or C.

- **License additions.** To add a classification to an existing license, see WAC 296-52-64085, Changes to a blaster's license classification.

PERMANENT

License Classifications Table					
LIST A		LIST B		LIST C	
AG	Agriculture	DE	Demolition	LE	Law Enforcement*
AV	Avalanche Control	SB	Surface Blasting*	UL	Unlimited*
ED	Explosives Disposal*	UB	Underground Blasting		
FO	Forestry*	UW	Underwater Blasting		
IO	Industrial Ordnance				
SE	Seismographic				
TS	Transmission Systems				
WD	Well Drilling				

* Detailed classification information.

- **Explosives disposal.** Disposal of explosive materials by licensed blasters.
- **Forestry.** Includes logging, trail building, and tree top-ping.
- **Law enforcement.** Law enforcement bomb disposal and illegal fireworks and explosives disposal.
- **Surface blasting.** Includes construction, quarries, and surface mining.
- **Unlimited.** Includes all classifications except underground blasting and law enforcement.

NEW SECTION

WAC 296-52-64020 General qualifications for blasters. (1) Physical condition. An applicant must be in good physical condition.

(2) **Drug use.** An applicant cannot be addicted to narcotics, intoxicants, or similar types of drugs.

Note: This rule does not apply to physician prescribed drugs and/or narcotics when taken as directed if their use will not place the blaster, or other employees in danger.

(3) **Knowledge, experience, and performance in transportation, storage, handling, and use of explosives.** A blaster applicant must:

- Have working knowledge of state and local explosives laws and regulations
 - Have adequate blaster training, experience, and knowledge
 - Be able to:
 - Safely perform the type of blasting to be used
- AND**
- Recognize hazardous conditions
 - Be competent in the use of each type of blasting method to be used
 - Have the ability to understand and give written and oral directions.

NEW SECTION

WAC 296-52-64030 List A qualifications. To be considered for a blaster's license, limited to one or more List A classifications, an applicant must have a minimum of forty hours documented training accrued during the previous six years.

The training must include a minimum of one of these three requirements:

- Eight hours basic blaster safety classroom training and thirty-two hours classification specific field training experience under a qualified blaster
- Sixteen hours basic blaster safety classroom training and twenty-four hours classification specific field training experience under a qualified blaster
- Twelve months classification specific field training experience.

NEW SECTION

WAC 296-52-64035 List B qualifications. To be considered for a blaster's license, which includes one or more List B classifications, the applicant must meet one of the following requirements listed below:

- Eighteen months of documented blasting experience which includes a minimum of twelve months of documented experience in List A and six months documented blasting experience in each classification being applied for in List B
- Twelve months of documented blasting experience in the past six years in the specific classification being applied for in List B.

Note: Up to eighty hours of classroom training may be substituted for experience.

NEW SECTION

WAC 296-52-64040 List C qualifications. (1) Unlimited classification. To be considered for unlimited classification, the applicant must submit a detailed resume documenting:

- Experience in the majority of the classifications in Lists A and B

• A minimum of five years of continuous full time blasting experience in the explosives industry where blasting has been the applicant's primary responsibility during the previous five years.

(2) **Law enforcement.** To be considered for a law enforcement classification, the applicant must submit a certificate of graduation from the FBI Redstone Arsenal Training Center at Redstone, Alabama.

NEW SECTION

WAC 296-52-64045 Application.

NEW SECTION

WAC 296-52-64050 Blaster license applicant information. An applicant for a blaster's license must provide the following information to the department:

- The application must be signed by the blasting course instructor and the qualified blaster the applicant trained under
- A detailed resume of blasting training and experience
- Satisfactory evidence of competency in handling explosives
- Information required by WAC 296-52-610, Explosive licensing.

Note: The department may request additional information for the classification being applied for upon review of a blaster's resume.

NEW SECTION

WAC 296-52-64055 Blaster license testing. List A and B applicants must pass a written test prepared and administered by the department. List C applicants are exempt from testing.

NEW SECTION

WAC 296-52-64065 Blaster license limits. (1) A blaster's license documents:

- (a) The classifications the blaster is authorized to perform
 - (b) Any limitations imposed on the licensee.
- (2) The licensee cannot:
- (a) Perform blasting for which they are not licensed
- OR**
- (b) Exceed the limits specified on the license.

NEW SECTION

WAC 296-52-64075 Blaster license disclosure. A blaster must provide their blaster's license and a valid identification card to the department or other law enforcement representatives upon request.

NEW SECTION

WAC 296-52-64080 Purchaser disclosure. A blaster may be required to verify the name of the explosives purchaser.

PERMANENT

NEW SECTION

WAC 296-52-64085 Changes to a blaster's license classification. Additional blaster classifications may be added to a license. Applicants must:

- Submit a detailed resume which documents blasting experience in the specific classification being applied for
- Pass a written exam prepared and administered by the department.

NEW SECTION

WAC 296-52-64090 Blaster license renewal. The following requirements are for license renewal:

- General applicant qualifications, WAC 296-52-64020, General qualifications, apply.
- Renewal qualifications include the requirements of WAC 296-52-64090 License renewal, through WAC 296-52-64100, List C renewal qualifications.
- Training, experience, and responsibility requirements must be accrued during the two years before the application is submitted

NEW SECTION

WAC 296-52-64095 List A and B renewal qualifications. The following requirements are for List A and B renewal qualifications:

(1) An application for a license renewal must include documentation of:

- Blasting experience, by providing a minimum of two blast records

OR

- Successful completion of sixteen hours of basic blaster's classroom training. The blasting course instructor must witness the submitted documentation.

(2) List A or B applicants who do not meet the minimum classification qualifications must pass a written exam administered by the department.

NEW SECTION

WAC 296-52-64100 List C renewal qualifications. The following requirements are for List C renewal qualifications:

(1) **Unlimited classification.** To be considered for a renewal of an unlimited license, an applicant must submit a detailed resume documenting:

- Experience in the majority of classification in List A and B
- Full-time blasting experience in the explosives industry, where blasting has been the applicant's primary responsibility.

(2) **Law enforcement classification.** To be considered for a renewal of the law enforcement classification, an applicant must submit a detailed resume documenting:

- Continuous employment as a law enforcement bomb technician accrued during the previous two years

- Successful completion of sixteen hours of bomb technician classroom training. The course instructor must sign the submitted documentation.

NEW SECTION

WAC 296-52-650 Manufacturer's license.

NEW SECTION

WAC 296-52-65005 Responsibility to obtain a manufacturer's license. Any person, firm, partnership, corporation, or public agency wanting to manufacture explosives or blasting agents, or use any process involving explosives as a component part in the manufacture of any device, article, or product must have a valid manufacturer's license from the department.

NEW SECTION

WAC 296-52-65010 Manufacturer applicant information. The manufacturer applicant must provide the following information to the department:

- The reason the applicant wants to manufacture explosives
- The manufacturing or processing location
- The kind of explosives manufactured, processed, or used
- The distance that the explosives manufacturing building is located, or intended to be located, from other buildings, magazines, inhabited buildings, railroads, highways, and public utility transmission systems
 - A site plan. The site plan must:
 - Include the distance each manufacturing building is located from:
 - ◆ Other buildings on the premises where people are employed
 - ◆ Other occupied buildings on adjoining property
 - ◆ Buildings where customers are served
 - ◆ Public highways
 - ◆ Utility transmission systems
 - Demonstrate compliance with:
 - ◆ Applicable requirements of the Washington State Explosives Act
 - ◆ The separation distance requirements of this chapter
 - Identify and describe all natural or artificial barricades used to influence minimum required separation distances
 - Identify the nature and kind of work being performed in each building
 - Specify the maximum amount and kind of explosives or blasting agents to be permitted in each building or magazine at any one time
- Information required by WAC 296-52-610, Explosive licensing
- Other pertinent information required by the department.

PERMANENT

NEW SECTION**WAC 296-52-65015 Manufacturing site inspections.**

The department will:

- Inspect all manufacturing or processing locations:
 - Before they are placed in operation or service

AND

- Prior to licensing
- Schedule inspections:
 - Once a complete application is received
 - At the earliest available and mutually agreeable date.

NEW SECTION

WAC 296-52-65020 Conditions of a manufacturer's license. The department will issue a license to the manufacturer applicant(s) provided:

- (1) The required inspection confirms that the site plan is accurate and the facilities comply with applicable regulations of the department.
- (2) The applicant(s) or operating superintendent and employees are sufficiently trained and experienced in the manufacture of explosives.

NEW SECTION

WAC 296-52-65025 Annual inspection. The department will inspect manufacturing or processing locations annually.

NEW SECTION

WAC 296-52-65030 Site plan. The site plan must include:

- (1) A copy of the site plan and manufacturer's license must be posted in the main office of each manufacturing plant.
- (2) The site plan must be maintained and updated to reflect the current status of manufacturing facilities, occupancy changes, or other pertinent information.
- (3) Notifying the department:
 - When a significant change occurs in the site plan
 - For a consultation before changing operations if the change is of such nature or magnitude that compliance with requirements of this chapter is questionable.

NEW SECTION

WAC 296-52-660 Storage license.

NEW SECTION

WAC 296-52-66005 Responsibility to obtain a storage license. Any person, firm, partnership, corporation, or public agency wanting to store explosive materials must have a valid license from the department.

NEW SECTION**WAC 296-52-66010 Storage applicant information.**

Applicants must provide the following information to the department:

- The address or a legal description of the existing or proposed magazine or mobile storage site must be clearly identified
- The reason explosive materials will be stored
- The kind of explosives or blasting agents that will be stored
- The maximum quantity of explosive materials that are or will be stored
- Identify the total weight, in pounds, of all explosive materials to be stored on site
- The distance that the magazine is located or intended to be located from other magazines, inhabited buildings, explosives manufacturing buildings, railroads, highways, and public utility transmission systems
- How long the storage license is needed
- Information required by WAC 296-52-610, Explosive licensing
- Any other pertinent information requested by the department.

NEW SECTION

WAC 296-52-66015 Storage site inspections. The department will:

- Inspect magazines, mobile-storage sites, and manufacturing plants:
 - Before being placed in operation or service
 - Prior to licensing
- Will schedule inspections:
 - Once a complete application is received
 - At the earliest available and mutually agreeable date.

Note: See WAC 296-52-66040, Annual storage inspection, for mobile storage site qualifications.

NEW SECTION

WAC 296-52-66020 Demonstration of handling and storage experience. Applicants or officers, agents, or employees of the applicant, must demonstrate satisfactory experience in:

- Handling explosives
- The storage requirements for any type of explosive materials to be stored.

NEW SECTION

WAC 296-52-66030 Storage license number. The storage license number must:

- (1) Be permanently affixed on the inside and outside of each storage magazine.
- (2) Stay with each magazine throughout its life.

NEW SECTION

WAC 296-52-66035 Storage limit. A storage license documents the storage limits imposed on the licensee. Storage cannot exceed the limits specified on the license.

NEW SECTION

WAC 296-52-66040 Annual storage inspection. Magazines, mobile storage sites, and manufacturing plants will be inspected annually.

NEW SECTION

WAC 296-52-66045 Mobile storage sites. Semi-trailers or other mobile facilities used to transport blasting agents on site or on highways are considered adequate for blasting agent storage, provided they meet:

- (1) U.S. DOT requirements for transportation of blasting agents.
- (2) The requirements of Table H-20, Table of Distances for Storage of Explosives with respect to inhabited buildings, passenger railways, and public highways.
- (3) The requirements of Table H-22, Separation Distances of Ammonium Nitrate and Blasting Agents from Explosives or Blasting Agents with respect to one another.

NEW SECTION

WAC 296-52-66050 Moving, altering, or destroying a licensed magazine. Follow these requirements to move, alter, or destroy a licensed magazine:

- (1) When a magazine is moved, altered, or destroyed, the licensee must:
 - (a) Notify the department
 - (b) Provide the license number of the magazine
 - (c) Identify the specific alterations made to the magazine
- (2) A magazine may be moved on a job site within a reasonable distance from the original location stated on the application without notifying the department, provided the:
 - (a) New location complies with the requirements of this chapter and the Washington State Explosives Act
 - (b) Magazine can be quickly located for an inspection.

NEW SECTION

WAC 296-52-66055 Transfer or lease of a magazine or mobile storage site. The following are requirements for transfer or lease of a magazine or mobile storage site:

- (1) **Notification.** When a licensed magazine or mobile storage site is leased or transferred to another person, the owner must:
 - (a) Notify the department.
 - (b) Provide the magazine license number to the department.
- (2) **New user obligations.** A new magazine or mobile storage site user:
 - (a) Is responsible for the safe operation of the magazine.
 - (b) Must:
 - Submit a magazine storage application to the department
 - Pay the license fee for a minimum of one year
 - Obtain a storage license prior to storing explosive materials in the magazine or at the mobile storage site.

NEW SECTION

WAC 296-52-66060 Reporting changes in conditions. Any change in conditions around a magazine, mobile storage site, or manufacturing plant that could adversely affect compliance with any requirement of this chapter must be promptly reported to the department. Examples of reportable changes include:

- (1) Construction of occupied buildings.
- (2) Public utilities transmission systems.
- (3) Roads or railroads that have been built closer to the manufacturing plant or magazine.

**PART C
USE OF EXPLOSIVE MATERIALS**

NEW SECTION

WAC 296-52-67010 Blaster in charge responsibilities. The blaster in charge is responsible for all aspects of explosives use and must:

- (1) Carry a current license with the correct blaster classification for the type of blasting being performed.
- (2) Comply with all federal, state, and local government regulations.
- (3) Meet the general license qualifications identified in WAC 296-52-64020, General qualifications.
- (4) Use every reasonable precaution to ensure the safety of the general public and workers. Reasonable precautions include the use of:
 - (a) Blast area surveys.
 - (b) Warning signal posters, which must be posted in suitable locations. Table T-1 shows the information that must be on the poster.

TABLE T-1

WARNING SIGNAL	A 1 minute series of long blasts 5 minutes prior to blast signal.
BLAST SIGNAL	A series of short blasts 1 minute prior to the shot.
ALL CLEAR SIGNAL	A prolonged blast following the inspection of the blast.

- (c) Flags and barricades.
- (d) Blasting mats or other suitable protective material.
- (5) Exercise and apply independent professional judgment regarding blasting activities, when following instructions from others could result in an illegal act or affect the outcome of a blast.
- (6) **Blast operation activities.** The blaster in charge must:
 - Have authority over all blasters and be able to promptly correct all actions taken in any area of the blast operation

PERMANENT

- Manage the blast operation properly for any type of blasting being performed
 - Control blast activities associated with a blast
 - Supervise explosive material activities, which include:
 - Keeping a running inventory of all explosives and blasting agents stored at the blast area
 - Supervising all on-site transportation, storage, loading, and firing of explosives
 - Notify local jurisdictions when blasting may affect them
 - Designate safe locations for personnel during the blast
 - Designate a method to determine when all personnel are accounted for in designated safe locations
 - Make sure blast observers are able to communicate with the blaster in charge
 - Make sure all possible exits to the blast site are observed immediately prior to each blast
 - Distribute explosives in the shot
 - Be present when a charge is detonated
 - Personally detonate the charge or give an order to a designated blaster to detonate the charge
- (7) **Notification - Blast incidents.** The blaster in charge must notify the department within twenty-four hours when:
- (a) A misfire is not cleared
 - (b) Vibration and air blast limits cause injury or property damage
 - (c) Flyrock causes injury or property damage
- (8) **Blast records.** The blaster in charge must:
- (a) Keep an accurate inventory of all explosives and blasting agents stored at the blast operation
 - (b) Keep a blast record with the following information:
 - Name of the company or contractor
 - Exact location of the blast
 - Date and time of detonation
 - Name, signature, and license number of the blaster in charge
- Type of material blasted
 - Type of explosives used
 - Number of holes, burden, and spacing
 - Diameter and depth of holes
 - Total amount of each type of explosives used
 - Maximum amount of explosives per delay period within eight milliseconds
 - Maximum number of hole per delay period within eight milliseconds
 - Method of firing
 - Type of circuit
 - Direction, distance in feet, and identification of the nearest dwelling, house, public building, school, church, or commercial/institutional building not owned or leased by the blaster in charge conducting the blasting
 - Weather conditions
 - Type and height (or length) of stemming
 - A statement indicating whether blast mats or other fly-rock protection were used
 - Type of initiation system used
 - Type of delay periods used
 - Seismograph records and readings, if required or used, must accurately identify the:

- Name of the person and business analyzing the record
- Exact location of the seismograph
- Distance of the seismograph from the blast
- Sketch of the blast pattern. The sketch must include the:
 - Number of hole
 - Burden
 - Spacing distance delay pattern
- Sketch of the hole profile if decking was used
- General comments which include:
 - Unusual conditions/situations during the blast
 - The calculated scale distance number
 - Misfires
- Complete and sign each blast record
- Retain blast records for a minimum of three years
- Make sure blast records are available for department inspection.

Note: A nonmandatory sample blast record can be found in Appendix B. You may use this format or create your own but all the information in this section must be included.

GENERAL EXPLOSIVES RULES

NEW SECTION

WAC 296-52-67020 Black powder. Black powder, including black powder manufactured for muzzle loading firearms, cannot be used for blasting.

NEW SECTION

WAC 296-52-67025 Age of explosives. The oldest explosive of the kind needed for a blast, must be used first.

NEW SECTION

WAC 296-52-67030 Blast site storage. Explosive materials at blast sites must be attended.

NEW SECTION

WAC 296-52-67035 Day box storage. A day box used for temporary storage of explosive materials at a job site during working hours at a job site must be:

(1) Constructed in accordance with WAC 296-52-70065, Explosives day box and WAC 296-52-70070, Detonator day box.

(2) Fire, weather, and theft resistant.

(3) Marked with the word "EXPLOSIVES."

(4) Safely separates detonators from other explosives.

(5) Attended to at all times against theft.

(6) On ground which slopes away from the day box for proper drainage.

NEW SECTION

WAC 296-52-67040 Attendants must be present. An authorized attendant must be:

(1) Physically present.

(2) Awake.

- (3) Alert.
- (4) Able to see the explosives at all times.
- (5) Able to reach the explosives quickly, without interference.

NEW SECTION

WAC 296-52-67045 Handling explosives. Explosives must:

- Be handled by only competent and authorized personnel
- Be delivered and issued only to a purchaser or a purchaser's authorized agent
- Be delivered into authorized magazines, approved temporary storage, or handling areas
- Be carried to the blast site from the main storage magazines by the blaster or blaster's helper in special insulated containers, day boxes, or original U.S. DOT shipping containers
- Never be carried in pockets or clothing, including detonators.

NEW SECTION

WAC 296-52-67050 Trainee supervision. Trainees and inexperienced personnel must work under the direct supervision of a fully qualified licensed blaster who knows the sites:

- Blasting method
- Safety procedures
- Blasting signals.

NEW SECTION

WAC 296-52-67055 Storms. (1) **Dust storms.** Blasting operations must be completely stopped and all personnel removed from the blast area if a heavy dust storm approaches or is present because it could cause static lightning.

(2) **Thunderstorms.** Blasting operations must stop and all personnel be removed from the blast area if a thunderstorm approaches or is present.

NEW SECTION

WAC 296-52-67060 Extraneous electricity and radio frequency (RF) transmitters. Precautions must be taken to prevent unintended electric detonator discharge from extraneous electricity and radio frequency (RF) transmitters. The following are sources of common hazards for extraneous electricity and RF transmissions:

(1) **Extraneous electricity.** Common hazardous sources of extraneous electricity include:

- Adjacent power lines
- Dust storms
- Lightning storms

(2) **RF transmission sources.** Common hazardous sources of RF transmissions include:

- **Mobile transmitters**
 - Citizen band (CB)
 - Side band radio

- VHF (FM) radio
- UHF cellular telephones
- Radar
- **Fixed location transmitters**
 - Base stations for CB
 - Side band or FM radio communications
 - UHF cellular telephone transmitters and service extension repeater systems
 - AM and FM (commercial) radio broadcast transmitters
 - TV broadcast transmitters and repeater system transmitters
 - Surface scan and radio navigation beacons
- **Low flying aircraft** (in particular military aircraft) create the most common serious RF exposures. These highly unpredictable mobile transmitters are very powerful and transmit on a broad spectrum of frequencies, which include, but are not limited to:
 - Radar
 - Laser
 - All common communications bands

Note: The two most dangerous examples are:

- Low flying automatic terrain following guidance systems
- Airplanes which are equipped to jam all common radar and communications frequencies for a distance of several miles around the airborne transmitters.

(3) **Transportation.** Transportation of explosives must meet these requirements:

• **Public highways.** The Washington utilities and transportation commission (UTC) and Washington state department of transportation (WSDOT) require compliance with ANSI D6.1-1988, Uniform Traffic Control Devices

• **Private roads.** You do not have to comply with ANSI on private roads under department jurisdiction if required warning signs are properly placed when electric detonators are present

(4) **Site survey.** The blaster in charge must conduct or assign a designated appointee to conduct an accurate survey of the entire blast area, to determine:

- The clearance points where roads or right of ways enter and exit the required clearance zone
- If the one thousand-foot clearance zone needs adjusting to maintain the permissible clearance zone at all times, if the blast area moves as the job progresses

(5) **Clearance zones.**

Required clearance zones for:	Number of feet
Construction operations	1000 feet
Demolition operations	1000 feet
General industry operations, not subject to construction requirements	350 feet

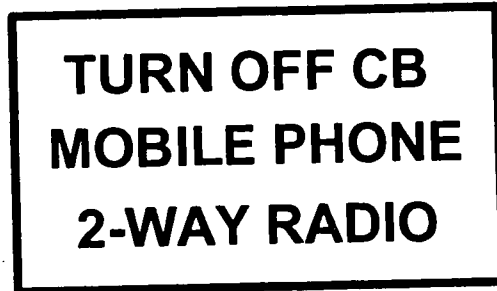
PERMANENT

(6) RF-transmitter warning signs.

RF-TRANSMITTER WARNING SIGNS



W22-1
48" X 48"



42" X 36"



W22-3
42" X 36"

PERMANENT

(a) RF-transmitter warning-sign specifications.

Signs must:

- Be a specific size. See the signs above for sign dimensions
- Have a "construction" orange background
- Have black letters and borders
- Use all upper case letters that are at least the size shown above

Note: Larger signs may be required where the highway speed limit is more than fifty-five miles per hour.

(b) Posting warning signs must:

- Be adequately placed to warn:
 - All transmitter users against the use of:
 - Radio frequency transmitters
 - CBs
 - Mobile phones
 - Two-way radios
- All users of routes into the electric detonator clearance zone

- Be prominently displayed when an electric detonator initiation system is being used during blasting operations and when the electric detonators have been removed from the original U.S. DOT approved shipping container

- Be posted at the beginning of the blast zone minimum clearance point saying:

"TURN OFF CB, MOBILE PHONE, 2-WAY RADIO"

(c) Blast zone signs.

- The "BLAST ZONE 1,000 FEET" sign must be posted one thousand feet before the "TURN OFF CB, MOBILE PHONE, 2-WAY RADIO" sign

- The one thousand-foot separation distance limit may be reduced (not less than three hundred feet) in very slow vehicle travel zones (such as off-road construction right of ways, rock pits, or quarries)

(d) An "END BLAST ZONE" sign must be posted outside the blasting zone clearance limits.

(e) Signs must be covered or removed when blasting operations are not being conducted.

(7) **Voltage identification.** Electrical transmission and distribution line voltage must be accurately identified.

(8) **System clearance identification.** The required clearance for each system must be accurately identified.

(9) **RF transmitters.** Mobile RF transmitters must be deenergized or disconnected when they are less than one hundred feet from electric detonators that are not fully contained in their original U.S. DOT shipping containers.

Note: Fixed location RF transmitters represent a higher level of hazard to both storage and blasting operations involving electric detonators because the transmitters are more powerful and transmit dangerous levels of RF exposure over much greater distances.

(10) **Prevention of radio frequency hazards:**

(a) Electric detonators in storage or at blasting operations must meet the appropriate distance table requirements published in the IME Publication Number 20, 1988, "Safety Guide for the Prevention of Radio Frequency Hazards in the Use of Commercial Electric Detonators (Blasting Caps)."

(b) If it is necessary to conduct blasting operations inside the required separation distances specified in the IME Pamphlet Number 20, 1988:

- Storage and use of electric detonators is prohibited on the site
- Only detonating cord, safety fuse, shock tube, or other approved nonelectric systems can be used.

NEW SECTION

WAC 296-52-67065 Vibration and damage control.

(1) Ground vibration - maximum limits.

Either Table 8-A or Table 8-B can be used to determine the maximum limits of ground vibration for any dwelling, public building, school church, commercial site, cofferdams, piers, underwater structures, or institutional building nearby the blasting site. The methods used for monitoring vibration and calculating frequency must be included in the blast plan.

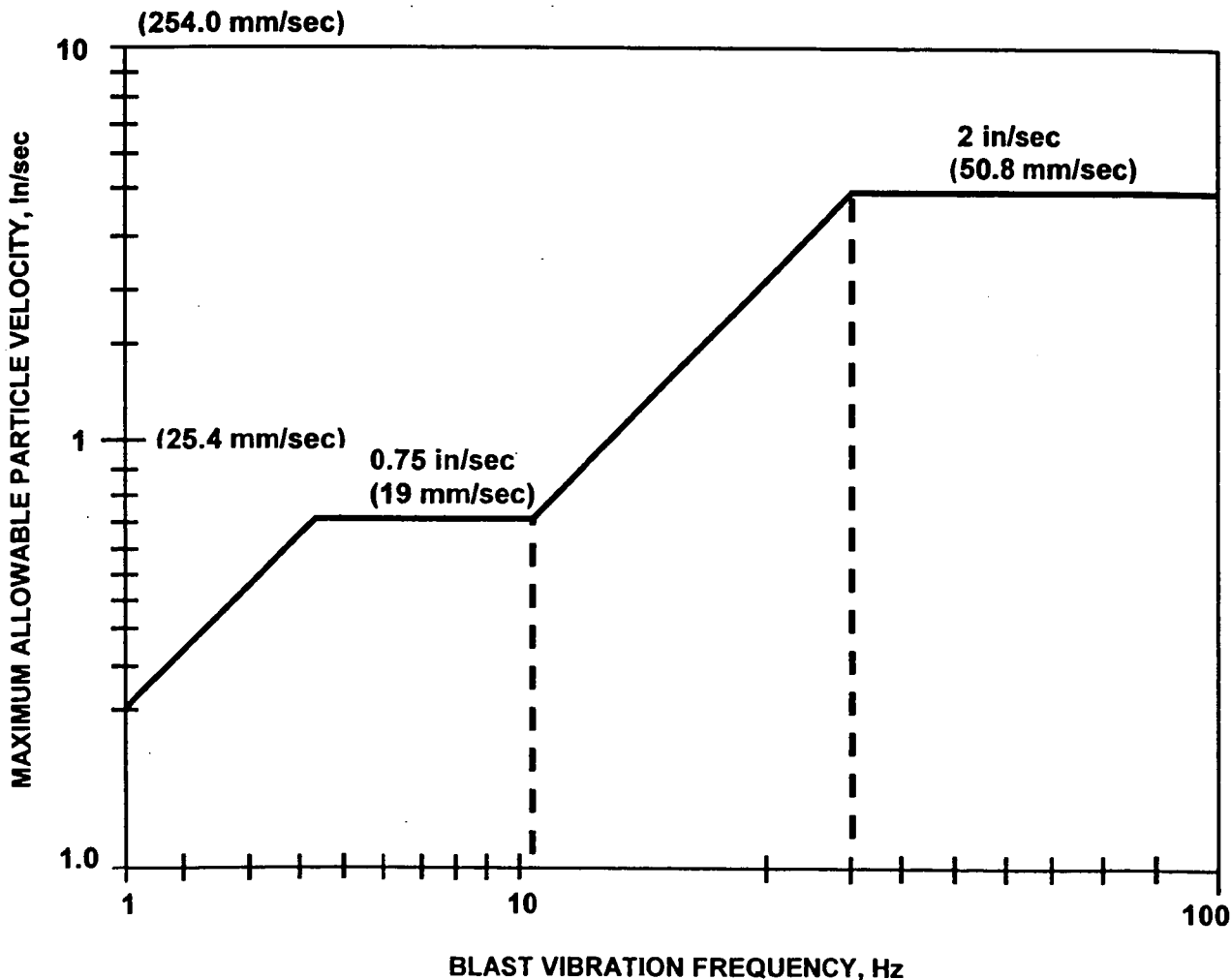
Table 8-A PEAK PARTICLE VELOCITY LIMITS	
5001 ft (1525 m) and beyond	0.75 in/sec (19 mm/sec)
¹ Peak particle velocity must be measured in three mutually perpendicular directions and the maximum allowable limits must apply to each of these measurements.	

Table 8-A PEAK PARTICLE VELOCITY LIMITS	
Distance from blasting site	Maximum allowable peak particle velocity ¹
0 to 300 ft (91.4 m)	1.25 in/sec (31.75 mm/sec)
301 to 5000 ft (91.5 m to 1524 m)	1.00 in/sec (25.4 mm/sec)

(a) Frequency versus particle velocity graphics. In lieu of Table 8-A, a blasting operation has the option to use the graphs shown in Figure 8a or 8b to limit peak particle velocity based upon the frequency of the blast vibration. If either of the graphs in Figure 8a or 8b is used to limit vibration levels, the methods used for monitoring vibration and calculating frequency must be included in the blast plan.

FIGURE 8a

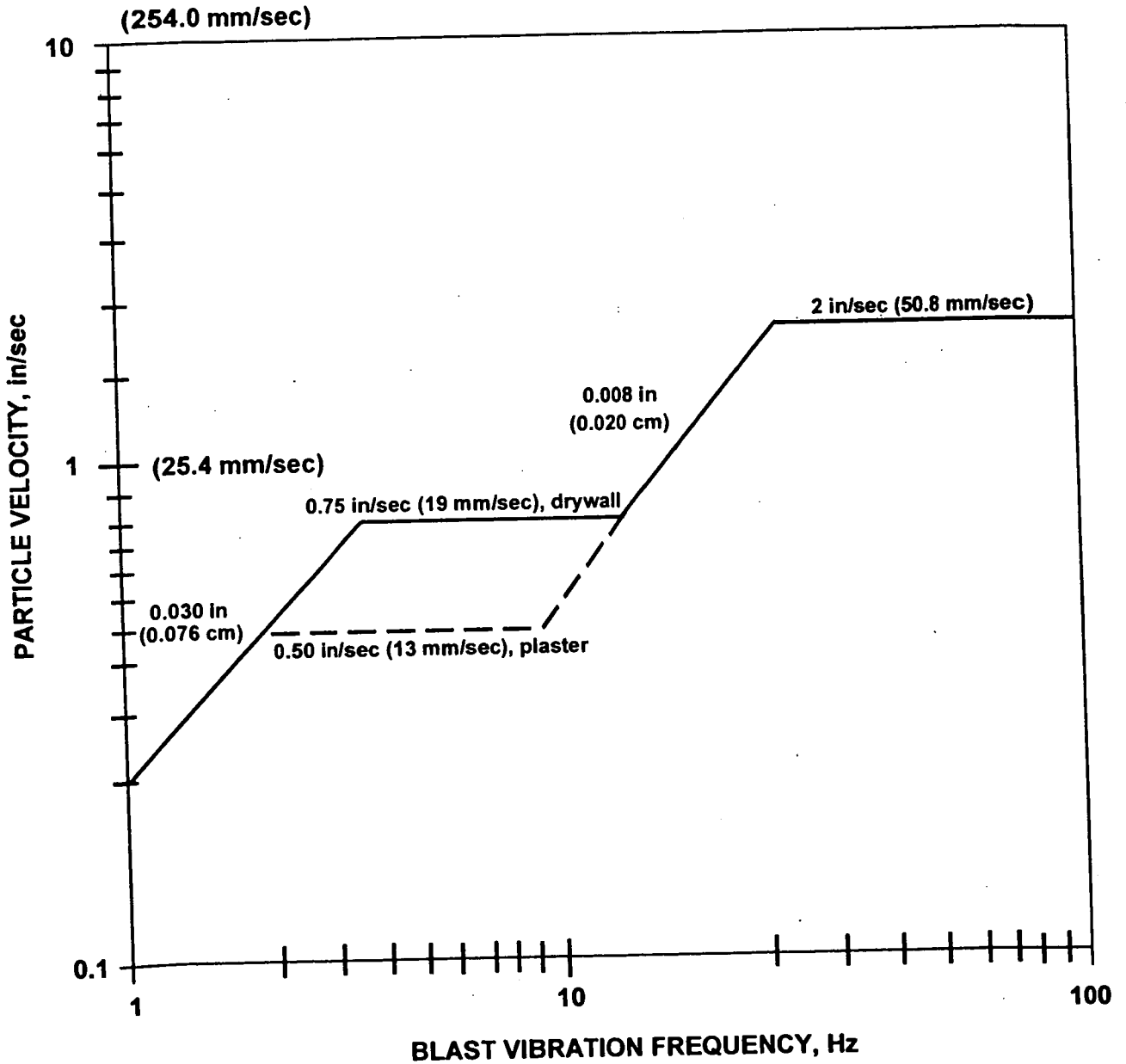
Alternative Blasting Level Criteria



PERMANENT

FIGURE 8b

Alternative Blasting Level Criteria



(b) Scaled distance equations. Unless a blasting operation uses a seismograph to monitor a blast to assure compliance with Table 8-A or Figures 9a or 8b, the operation must comply with the scaled distance equations shown in Table 8-B.

PERMANENT

Table 8-B
SCALED-DISTANCE EQUATIONS

Distance from Blasting Site	Scaled Distance Equation
0 to 300 ft (91.4 m)	$W \text{ (lbs)} = (d \text{ (ft)}/50)^2$ or $W \text{ (kg)} = (d \text{ (m)}/22.6)^2$
301 to 5000 ft (92 m to 1524 m)	$W \text{ (lbs)} = (d \text{ (ft)}/55)^Z$ or $W \text{ (kg)} = (d \text{ (m)}/24.9)^Z$
5001 ft (1524 m) and beyond	$W \text{ (lbs)} = (d \text{ (ft)}/65)^Z$ or $W \text{ (kg)} = (d \text{ (m)}/29.4)^Z$

Key:

W = The maximum weight of explosives in pounds (or kilograms) that can be detonated per delay interval of 8 milliseconds or greater.

d = The distance in feet (or meters) from the blast to the nearest dwelling, public building, school, church, commercial, or institutional building not owned, leased, or contracted by the blasting operation, or on property where the owner has not given a written waiver to the blasting operation.

Note: To convert English Units of scaled distances (ft/lb²) to metric units (m/kg²) divide by a factor of 2.21.

(2) **Air blast - Maximum limits.** Air blast must not exceed the maximum limits listed in Table 8-C. Use Table 8-C to determine maximum air blast limits at any dwelling, public building, school, church, commercial, or institutional building not owned, leased, contracted, or on the property where the owner has not provided a written waiver to the blasting operation.

Table 8-C
AIR-BLAST LIMITS

Lower Frequency of Measuring System in Hz (+ or - 3 decibels)	Measurement Level in Decibels
0.1 Hz or Lower	Flat Response 134 Peak
2 Hz or Lower	Flat Response 133 Peak
6 Hz or Lower	Flat Response 129 Peak
C-Weighted	Slow Response 105 Peak dBC

(3) Flyrock outside the blast area:

(a) **Uncontrolled flyrock.** Flyrock traveling in the air or along the ground cannot be cast from the blast area in an uncontrolled manner, which could result in personal injury or property damage. Uncontrolled flyrock (airborne or along the ground), that could cause personal injury or property damage, is not allowed from the blast area.

(b) **Contract or written waiver.** Flyrock cannot be propelled from the blast area onto property where the blasting operation has not contracted or received a written waiver from the owner.

(c) **Use of protective material.** When blasting in congested areas or close to a structure, railway, highway, or any other installation that could be damaged, the blast must be covered, before firing, with a mat or other protective material that will prevent fragments from being thrown.

NEW SECTION

WAC 296-52-67070 Storage at blast sites. (1) **Packing materials.** Empty boxes, paper, and fiber packing materials that have previously contained explosive materials must be:

- Disposed of in a safe manner

OR

• Reused in accordance with U.S. DOT hazardous materials regulations

(2) **Opening fiberboard cases.** Nonsparking metallic slitters may be used for opening fiberboard cases.

(3) **Deteriorating explosives.** Deteriorating explosives must be carefully set aside and disposed of according to the manufacturer's specifications.

NEW SECTION

WAC 296-52-67075 Blast area precautions. (1)

Warning signs. Blast area warning signs must:

- (a) Be set up at all entrances to the blast area.
- (b) Have lettering a minimum of four inches high and on a contrasting background.

(2) **Loaded stumps.** All loaded stumps must be marked for identification.

(3) **Lock out.** Cables close to the blast area must be deenergized and locked out by the blaster in charge.

NEW SECTION

WAC 296-52-67080 Drilling. (1) **Unexploded charges.**

- (a) Drilling cannot begin:
 - (i) When there is danger of drilling into a charged or misfired hole.
 - (ii) Until all remaining butts of old holes are examined for unexploded charges.

(b) Unexploded charges must be refired before work proceeds.

(2) **Distance limits during drilling.** Blasters cannot load or use explosives closer than:

- (a) The length of the steel being used for drilling.
- (b) Fifty feet of drilling operations.

(3) **Prior to loading drill holes.**

- (a) Holes must be checked prior to loading to determine depth and conditions.
- (b) Drill holes that have contained explosives or blasting agents cannot be deepened.

PERMANENT

(c) Drill holes must be large enough to allow unobstructed or free insertion of explosive cartridges.

(4) Enlarging or springing a drill hole.

(a) A drill hole cannot be sprung when it is near a loaded hole.

(b) A minimum of two hours must pass after a charge has exploded in a drill hole that was enlarged or "sprung," before loading another charge of explosives into the hole.

Note: You do not have to wait two hours if the sprung hole is thoroughly wet down with water before it is loaded.

(c) Flashlight batteries cannot be used as a power source for springing holes.

NEW SECTION

WAC 296-52-67085 Loading blast holes. (1) **Power lines and portable electric cables.** Power lines and portable electric cables must be kept at a safe distance from explosives or blasting agents being loaded into drill holes.

(2) Equipment, machinery, and tools.

• Any machine or tool not being used to load holes must be removed from the immediate loading area

• Equipment cannot be operated within fifty feet of loaded holes except when:

- It is needed to add burden or mats
- Tracking drills out of the loading area

(3) Holes that may be loaded. Only holes that will be fired in the next blasting round may be loaded.

(4) Tamping.

(a) A primer must never be tamped.

(b) Tamping must be done with wood rods or approved plastic tamping poles that do not have exposed metal parts.

(c) Nonsparking metal connectors may be used for jointed poles.

(d) Violent tamping must be avoided.

(5) Pneumatic loading. When loading blasting agents pneumatically over primed boosters:

- A semiconductive delivery hose must be used
- Equipment must be bonded and grounded

(6) Stemming. All blast holes in open work must be stemmed to:

(a) The collar.

OR

(b) A point, which will confine the charge.

(7) Attendance of holes. Loaded holes must be attended or protected.

(8) Unused explosives. After loading, all remaining explosives and detonators must be immediately returned to an authorized magazine or day box.

NEW SECTION

WAC 296-52-67090 Initiation systems. (1) **General initiation rules.**

(a) Training and supervision.

(i) The blaster in charge must provide adequate on-the-job training and supervision in the safe use of initiation systems.

(ii) All members of the blasting crew must be instructed, by the blaster in charge, in the safe use of the initiation system to be used and its system components.

(b) **Manufacturer recommendations.** All initiation systems and system components must be used in accordance with manufacturer recommendations and instructions.

(c) Vehicle use precautions.

(i) Explosives bulk trucks or other vehicles operated on a blast site cannot tread on:

- (A) Tubing
- (B) Connectors

OR

(C) Any surface delay component

(ii) If a vehicle must pass over loaded blast holes. Precautions must be made to consolidate tubing, connectors, or any surface delay component at the collar of the hole to prevent vehicle contact.

(d) Connecting the firing line. Firing lines cannot be connected to the blast initiating device until all personnel are:

- (i) Accounted for
- (ii) Removed from the blast danger area

OR

Are in a blast shelter or other location that provides equivalent protection

(e) Visual inspection. The blaster in charge must visually inspect the initiation system to make sure it is assembled according to the manufacturer's recommendations, before firing the shot.

(f) Explosives not used:

(i) Unused detonators or short capped fuses cannot be placed in holes that may be used for blasting.

(ii) Unused detonators must be removed from the work area and disposed of or stored in a licensed magazine.

(iii) Loose cartridges of explosives, detonators, primers, and capped fuses that are not used by the end of the work shift must be returned to and locked in their magazines.

(2) Nonelectric initiation systems.

(a) Shock tube lines. When a nonelectric shock tube initiation system is used:

(i) Spools of shock tube lines cannot be spooled from trucks or equipment.

(ii) The shock tube line must:

- (A) Be free of knots and tight kinks
- (B) Be free of cuts or abrasions that could expose the core to moisture
- (C) Not be stretched
- (D) Be neat and orderly

(iii) Tie ins must be kept neat and clean.

(iv) Unused lead line must be sealed to prevent moisture and dirt from entering the tube,

(v) Care must be taken to avoid hitting the tube with a shovel when the shock tube is being covered.

(vi) The end of the detonator must be pointed toward the front of the shot to minimize the chance of shrapnel flying to the rear of the blast where the shock tube will be lit.

(b) Surface connector blocks. Nonelectrical tubes must:

- (i) Be secured properly in surface connector blocks.

(ii) Never exceed the rated capacity of tubes in surface connector blocks.

(c) **Splicing line.** A knot must be tied in the tubes to take the strain off of the splice.

(d) **Detonator cord.** If a detonator cord is used for surface tie in:

(i) All lines must be kept taut.

(ii) Connections to nonelectrical units must be at ninety degree angles.

(e) **Equipment and personnel.**

(i) Equipment cannot roll over shock tubes.

(ii) All unnecessary equipment and personnel must be removed from the blast area during loading.

(3) **Electric initiating systems.**

(a) **Survey of extraneous currents.** A survey to evaluate extraneous currents must be conducted:

(i) By the blaster in charge before adopting any system of electrical firing.

(ii) To eliminate all currents before holes are loaded.

(b) **Detonator compatibility, style, function, and manufacture.** In any single blast using electric detonators, all detonators must be:

(i) Compatible with each other.

(ii) Of the same style or function.

(iii) From the same manufacturer.

(c) **Wire capacity and gauge.**

(i) Connecting wires and lead wires must:

(A) Be insulated single solid wires with sufficient current carrying capacity

(B) Not be less than twenty gauge (American wire gauge) solid core insulated wire

(ii) Firing line or lead wires must:

(A) Be made of solid single wires with sufficient current carrying capacity

(B) Not be less than fourteen gauge (American wire gauge) solid core insulated wire

Note: Bus wires, depends on the size of the blast, fourteen gauge (American wire gauge) copper is recommended.

(d) **Lead wires.**

(i) **Shunting.** You must shunt the ends of lead wires that will be connected to a firing device by twisting them together before they are connected to leg or connecting wires.

(ii) **Control.** The blaster in charge must keep control of shunted lead wires until loading is completed and the leg wires are attached.

(iii) **Attachment.** Lead wires must be attached by the blaster in charge when it is time to fire the shot.

(e) **Detonator leg wires.** Electric detonator leg wires must:

(i) Be kept shunted (short circuited) until they are connected into the circuit for firing.

(ii) Not be separated (except for testing) until all holes are loaded and the loader is ready to connect the leg wires to the connecting or lead wires.

(f) **Circuits.**

(i) Blasting circuits or power circuits must be used in electric blasting and according to the electric detonator manufacturer's recommendations.

(ii) Care must be taken to make sure an adequate quantity of delivered current is available according to the manufacturer's recommendations, when firing a circuit of electric detonators.

(iii) A power circuit used for firing electric detonators cannot be grounded.

(iv) The firing switch must be designed so the firing lines to the detonator circuit automatically short circuit when the switch is in the "off" position.

(v) The firing switch must be locked in the "open" or "off" position at all times, except when firing from a power circuit.

(g) **Firing line insulation.** The insulation on all firing lines must be adequate and in good condition when firing electrically.

(h) **Testing.**

(i) The firing line must be checked at the terminals with an approved testing device before being connected to the blasting machine or other power sources.

(ii) The circuit, including all detonators, must be tested with an approved testing device before being connected to the firing line.

(i) **Switch keys.** The blaster in charge is the only person who is allowed to have firing switch keys in their possession.

(j) **Blasting machines.** A nonelectric system must be used if these requirements cannot be satisfied:

(i) Blasting machines must be in good condition.

(ii) The efficiency of the blasting machine must be tested periodically to make sure it delivers power at its rated capacity.

(iii) **Responsible person.**

- The blaster in charge must be in charge of blasting machines

- The blaster in charge must connect the lead wires to the blasting machine and must fire the shot

(iv) **Connections.**

- When firing with blasting machines, connections must be made according to the manufacturer of the electric detonator's recommendations

- All connections must be made from the drill hole back to the source of the firing current

- Lead wires must remain shunted and not connected to the blasting machine or other source of current until the charge is ready to fire

- The number of electric detonators connected to a blasting machine cannot exceed the blasting machine's rated capacity

(v) **Series circuit.** In primary blasting, a series circuit cannot contain more detonators than the manufacturer's recommended limits for electric detonators.

(vi) **Circuit testing.** A blaster in charge must use blasting testers specifically designed to test circuits to charged holes.

(vii) **Blasting near power lines.** Whenever lead or blasting wires could be thrown over live overhead powerlines, communication lines, utility services, or other services or structures by the force of an explosion, care must be taken to make sure:

- (A) The total length of wires are short enough so they will not hit the lines
- (B) The wires are securely anchored to the ground
- (C) The owners or operators of the utilities blasting in the area are notified
- (viii) **Disconnecting lead wires.** After firing an electric blast from a blasting machine, lead wires must be immediately disconnected from the machine and short-circuited.

NEW SECTION

WAC 296-52-67095 Use of safety fuse with detonators. (1) Restricted or prohibited use.

(a) Safety fuse and detonators, used for conventional blasting, must be in the following:

- (i) When extraneous electricity or radio frequency transmissions make the use of electric detonators and wire systems dangerous.
- (ii) When overhead electric transmission lines cannot be deenergized and there is danger that blasting wires may be thrown onto the overhead lines during a blast.
- (iii) For avalanche control hand charges.
- (iv) For specialized applications when detonators and fuses are more suitable than electric or other nonelectric initiation systems.

(b) **Mudcap charges.** A detonator and fuse cannot be used for firing mudcap charges, unless the charges are separated to prevent one charge from dislodging other charges in the blast.

(c) **Drop fuse method.** Dropping or pushing a primer or any explosive with a lighted fuse attached is prohibited.

(d) **Damaged fuses.**

- (i) Deteriorated or damaged fuses cannot be used.
- (ii) It is prohibited to hang fuses on nails or other objects, which causes sharp bends in the fuse.

(2) **Fuse length.** Fuses:

(a) Must be cut long enough to reach beyond the collar of the drill hole.

(b) Must be three feet or longer.

(3) **Fuse burning rate.**

(a) Safety fuse burning rates must be:

- (i) Measured.
- (ii) Posted in conspicuous locations.
- (iii) Brought to the attention of all workers.
- (b) A fuse must burn between forty and fifty-five seconds per foot or it cannot be used.

(4) **Blaster safety.** When blasting with safety fuses, the length and burning rate of the fuse must allow sufficient time for the blaster to reach a place of safety.

(5) **Fuse capping.**

(a) **Capping location.** Fuses:

- (i) Must not be capped in any magazine or near any possible source of ignition.
- (ii) Must be capped in a place designated for this purpose.
- (iii) Must be capped at least one hundred feet from any storage magazine.

(b) **Fuse ends.** Before capping a safety fuse, a short length must be cut from the end of the supply reel to guarantee a freshly cut end in each detonator.

(6) **Crimpers.**

(a) **Design.** The design of detonator crimpers used for attaching detonators to safety fuses must be approved.

(b) **Condition.** Crimpers must be in good repair.

(c) **Accessibility.** Crimpers must be accessible for use.

(7) **Waterproofing.** The joint between the detonator and fuse must be waterproofed with a compound for use in wet locations.

(8) **Primers.**

(a) **Site selection.** Primers must:

- (i) Not be made in magazines or near possible sources of ignition.
- (ii) Be made in a place designated for this purpose.
- (iii) Be made a minimum of one hundred feet from any storage magazine.

(b) **Making primers.** When making primers:

- (i) Make only enough for one day's use.
- (ii) Only nonsparking skewers must be used for punching the hole in the cartridge to insert the capped fuse.
- (iii) A detonator cannot be inserted in explosives without first making a hole in the cartridge of proper size or using a standard detonator crimper.

(c) **Storage.** Primers must:

- (i) Be stored in a box type magazine.
- (ii) Not be stored in magazines where other explosives are stored.

(9) **Hand lighting.**

(a) No one may light more than twelve fuses at a time when hand lighting devices are used.

(b) Two fuses may be considered one fuse when two or more grouped safety fuses are lit as a single fuse by:

(i) An igniter cord

OR

(ii) Other similar fuse lighting devices.

(c) When multiple detonators and blasting is done by hand lighting methods, at least two people must be present.

NEW SECTION

WAC 296-52-67100 Use of detonating cord. (1) Cord selection. Care must be taken to select a detonating cord consistent with the:

- Type and physical condition of the drill hole
- Stemming
- Type of explosives used

(2) **Handling.** A detonating cord must be handled and used with:

- The same respect and care given to other explosives
- Care to avoid damaging or severing the cord during and after loading and hooking up

(3) **Calculating quantity and distance.**

- For quantity and distance purposes, a detonating fuse (up to sixty grains per foot) should be calculated as equivalent to nine pounds of high explosives per one thousand feet
- Heavier cord loads should be rated proportionally

(4) Trunk lines.

• Detonators for firing the trunk line cannot be brought to the loading area or attached to the detonating cord until everything else is ready for the blast

• All detonating cord trunk lines and branch lines must be free of loops, sharp kinks, or angles that direct the cord back toward the oncoming line of detonation

• Trunk lines in multiple row blasts must make one or more complete loops, with cross ties between loops at intervals less than two hundred feet

(5) Connections.

(a) Detonating cord. All detonating cords must be:

(i) Competent and positive in accordance with the manufacturer's recommended specifications.

(ii) Kept at right angles to the trunk lines.

(iii) Inspected before firing the blast.

(b) Knots.

(i) Knot or other cord-to-cord connections must be made with a detonating cord where the explosive core is dry.

(ii) All detonator cord knots must be tight.

(c) Connecting detonators.

(i) A detonator or electric detonator must be taped or securely attached along the side or end of the detonating cord. The detonator end containing the explosive charge must be pointed in the direction of the detonation.

(ii) Manufacturer's recommendations must be followed when short interval delay electric detonators are used with a detonating cord.

(iii) Manufacturer's recommendations must be followed when detonating cord millisecond delay connectors are used with a detonating cord.

(iv) The line of detonating cord extending from a drill hole or a charge must be cut from the supply spool before loading the remainder of the drill hole or placing additional charges.

NEW SECTION

WAC 296-52-67105 Firing the blast. (1) A code of blasting signals, equivalent to Table T-1, must be posted in one or more conspicuous places at the blast area and all employees must familiarize themselves with the code of blasting signals and use it. Warning signs must be placed at suitable locations, see WAC 296-52-67075(1), Warning signs.

(2) All charges must be covered with blasting mats or other protective material before firing, where blasting may cause injury or damage by flying rock or debris.

(3) Before a blast is fired, the blaster in charge must give a loud warning signal after they have verified all surplus explosives are in a safe place and all employees, vehicles, and equipment are at a safe distance or under sufficient cover.

(4) Flaggers must be safely stationed on highways that pass through the danger zone, to stop traffic during blasting operations on highways that pass.

(5) The blaster in charge must set the time of the blast and conduct all blasting operations so no shots will be fired without their approval.

TABLE T-1

WARNING SIGNAL	A 1 minute series of long blasts 5 minutes prior to blast signal.
BLAST SIGNAL	A series of short blasts 1 minute prior to the shot.
ALL CLEAR SIGNAL	A prolonged blast following the inspection of the blast.

NEW SECTION

WAC 296-52-67110 Precautions after firing. (1) **Immediately after firing.** Immediately after firing, the blaster in charge must:

(a) Disconnect the firing line from the blasting machine.
 (b) Lock the power switches in the "open" or "off" position.

(c) Carefully trace all wires and search for unexploded charges.

(2) **Post blast inspection.** The blaster in charge must perform an inspection of the area and surrounding rubble to determine if all charges have been exploded before employees are allowed to return to the operation.

(3) Misfires.

(a) Misfire found. Misfires must be:

(i) Immediately reported to their supervisor.

(ii) Recorded on the blast record.

(iii) Reported to the department within twenty-four hours if not cleared.

(b) Responsible person. A blaster in charge must be present and direct the handling of all misfires.

(c) Termination of work.

(i) All work must stop, except activities needed to remove the misfire hazard.

(ii) Drilling, digging, or picking is not permitted until:

(A) All misfired holes have been detonated

OR

(B) The blaster in charge determines work can proceed

(d) Evacuation precautions. The following evacuation precautions must be taken in the event of a misfire:

(i) If a misfire is found, the blaster in charge must make sure safeguards are in place to keep all employees or other personnel from the danger zone, except those needed to remove the misfire hazard.

(ii) Workers cannot return to misfired holes for at least:

(A) Thirty minutes when electric blasting caps are used

(B) One hour when detonators and fuses are used

(e) Charged or misfired holes.

(i) Attempts cannot be made to remove explosives from any charged or misfired hole.

(ii) A new primer must be connected and the hole refired.

(f) Refiring hazard. If refiring a misfired hole presents a hazard, explosives may be:

(i) Removed by washing out the explosives with water

OR

(ii) Removed with air, if the misfire is under water.

(4) Burning holes.

PERMANENT

(a) Everyone in the endangered area must move to a safe location when explosives are suspected of burning in a hole.

(b) No one, under any circumstances, may return to the hole:

(i) Until the danger has passed

OR

(ii) For at least one hour after the hole has been found.

NEW SECTION

WAC 296-52-67115 Excavation work in pressurized air locks. (1) Receiving, handling, storing, and transportation.

(a) The blaster in charge or powder person is responsible for the receipt, unloading, storage, and on-site transportation of explosives and detonators.

(b) Explosives in transit cannot be left unattended.

(c) Detonators and explosives for each round must be taken directly from the magazines to the blasting zone and immediately loaded.

(2) **Wet holes.** Explosives appropriate for use in wet holes must be:

(a) Water resistant

AND

(b) Fume Class 1 or other approved explosives.

(3) **Bonding.** All metal pipes, rails, air locks, and steel tunnel linings must be:

(a) Electrically bonded together and grounded at or near the portal or shaft.

(b) Cross bonded together at not less than one thousand-foot intervals throughout the length of the tunnel.

(4) **Air locks.**

(a) No one is allowed to enter the air lock when detonators or explosives are brought in, except:

(i) The blaster in charge.

(ii) The powder person.

(iii) The lock tender.

(iv) Employees needed to carry explosive materials.

(b) Primers, detonators, and explosives must be taken separately into pressure working locks.

(c) Material, supplies, or equipment cannot be brought into air locks with explosive materials.

(d) Detonators and explosives not used after loading a round must be removed from the working chamber before connecting the connecting wires.

(5) **Grounding.** Each air supply pipe must be grounded at its delivery end.

(6) **Mixed face.**

(a) Light charges and light burdens must be used for each hole when tunnel excavation in rock face is approaching or is in mixed face.

(b) Advance drilling must be done when tunnel excavation in rock face approaches mixed face to determine the:

(i) General nature and extent of rock cover

AND

(ii) Distance to soft ground as excavation advances:

BLASTING AGENTS

NEW SECTION

WAC 296-52-67125 Transportation, storage, and use. Unless otherwise specified in this part, blasting agents must be transported, stored, and used in the same manner as explosives.

Note: Water-gels are covered in WAC 296-52-67150, Water-gel and emulsion explosives and blasting agents, through WAC 296-52-67170, Bulk delivery/mixing vehicles.

NEW SECTION

WAC 296-52-67130 Fixed location mixing. (1) Building location. Buildings or other facilities used for manufacturing blasting agents must meet the separation distance requirements of Table H-21 for inhabited buildings, passenger railroads, and public highways.

(2) **Building construction.** Buildings used for mixing blasting agents must be constructed of noncombustible material or sheet metal on wood studs and be well ventilated.

(3) **Determining distance.** When determining the distances separating highways, railroads, and inhabited buildings from potential explosions (Table H-20), the sum of all masses that may propagate (i.e., lie at distances less than specified in Table H-22) from either individual or combined donor masses are included in the sum. However, when the ammonium nitrate is included, only fifty percent of its weight must be used because of its reduced blast effects.

(4) **Heat sources.**

(a) **Internal heating units.** Properly designed and located heating units that do not depend on combustion processes may be used in the building.

(b) **External heating units.** All direct sources of heat must be located outside the mixing building.

(5) **Mixing plant floors** must be made of nonabsorbent materials such as concrete.

(6) **Electrical equipment.**

(a) Electrical switches, controls, motors, and lights located in the mixing room must:

(i) Comply with the requirements of WAC 296-800-280.

(ii) Be located outside the mixing room.

(b) The frame of the mixer and all other equipment must be:

(i) Electrically bonded.

(ii) Provided with a continuous path to ground.

(7) **Internal combustion engines.**

(a) **Location.** All internal combustion engines used for electric power generation must be:

(i) Located outside the mixing plant building.

OR

(ii) Properly ventilated and isolated by a firewall.

(b) **Exhaust systems.** Engine exhaust systems must be positioned so spark emission does not become a hazard to any material in or adjacent to the plant.

(8) **Mixing equipment.** Equipment used for mixing blasting agents must comply with the following:

(a) **Design.** The design of the mixer must:

PERMANENT

- Minimize the possibility of frictional heating, compaction, and confinement

- Have the bearings and drive assemblies mounted outside the mixer and protected against the accumulation of dust
- Have the surfaces accessible for cleaning

(b) **Construction.** Mixing and packaging equipment must be constructed of materials compatible with the fuel ammonium nitrate composition.

(c) **Fire precautions.** The following fire precautions must be followed:

(i) **Mixer fuel oil flow.** In case of fire:

(A) Appropriate means to prevent the flow of fuel oil to the mixer must be provided

(B) An automatic spring-loaded shutoff valve with fusible link must be installed in gravity flow systems

(ii) **Flame/spark producing devices.** Smoking, matches, open flames, spark-producing devices, and firearms (except firearms carried by law enforcement bomb squad members or qualified guards), are not allowed inside or within fifty feet of any facility used for mixing blasting agents.

(9) **Blasting agent compositions.** The following are requirements for determining blasting agent compositions:

(a) **Determining sensitivity.** The sensitivity of the blasting agent must be determined by means of a Number 8 test detonator at regular intervals and after every change in formulation.

(b) **Handling precautions.** Precautions must be taken when handling:

- Small particle oxidizers, such as crushed ammonium nitrate prills or fines, may be more sensitive than coarser products and must be handled with greater care

- Solid fuels must be used in a manner to minimize dust explosion hazards

- Metal powders, such as aluminum, must be:

- Kept dry

OR

- Stored in moisture resistant or weather tight containers or bins

(c) **Use restrictions.** The following cannot be used:

(i) Crude and crankcase oil

(ii) Hydrocarbon liquid fuel with a flash point lower than the 125°F minimum for Number 2 diesel fuel oil

OR

(iii) Peroxides and chlorates.

(10) **Fuel oil storage.**

(a) **Facilities.** Fuel oil storage facilities must be:

(i) Independent structures

OR

(ii) Located at a site away from the manufacturing building.

(b) **Surrounding area.** In order to prevent oil from draining toward a manufacturing building in the event of a tank rupture, the surrounding grounds must slope away from the building.

(11) **Safety precautions.** Safety precautions at mixing plants must include these requirements:

(a) **Floor construction.** Floors must be constructed to eliminate floor drains and piping where molten materials could flow and be confined, in case of fire.

(b) **Mixing/packaging room.** The floors and equipment of the mixing and packaging room must be cleaned regularly and thoroughly to prevent accumulation of oxidizers, fuels, and other sanitizers.

(c) **Housekeeping.** The following housekeeping requirements must be followed:

(i) **Mixing plant.** The mixing and packaging plant must:

(A) Be cleaned regularly and thoroughly to prevent excessive accumulation of dust

(B) Safely dispose of empty ammonium nitrate bags daily

(ii) **Surrounding area.** The land surrounding the mixing plant must be kept clear of brush, dried grass, leaves, and other materials for a minimum of twenty-five feet.

(d) **Welding.**

(i) Welding or open flames are not permitted in or around the mixing or storage area of the plant unless:

(A) The equipment or area has been completely washed AND

(B) All oxidizer material has been removed

(ii) Before welding or repairing hollow shafts:

(A) Oxidizer materials must be removed from the inside and outside of the shaft

AND

(B) The shaft must be vented with a minimum 1/2-inch diameter opening

(e) **Explosives.** Explosives are not permitted inside or within fifty feet of any facility used for mixing blasting agents.

NEW SECTION

WAC 296-52-67135 Bulk delivery/mixing vehicles.

Note: This section applies to both off highway operations and public highway transportation.

(1) **Vehicles.** These vehicle requirements must be followed:

(a) **Strength.** A bulk delivery vehicle must be strong enough to carry a load without difficulty.

(b) **Mechanical condition.** A bulk delivery vehicle must be in good mechanical condition.

(c) **Body.** A bulk vehicle body for delivering and mixing blasting agents must:

(i) Be constructed of noncombustible materials.

(ii) Have closed bodies if they are used to transport bulk premixed blasting agents.

(d) **Mixing system parts.**

(i) All moving parts of the mixing system must be designed to prevent heat buildup.

(ii) Shafts or axles which contact the product must have outboard bearings with a minimum of one-inch clearance between the bearings and the outside of the product container. Special attention must be given to the clearances on all moving parts.

(e) **Welding.**

(i) Welding or open flames are not permitted in or around the mixing or storage area of the plant unless the equipment or area has been completely washed and all oxidizer material removed.

(ii) Before welding or repairing hollow shafts:

(A) All oxidizer material must be removed from the inside and outside of the shaft

AND

(B) The shaft must be vented with a minimum 1/2-inch diameter opening

(2) **Vehicle operation.** Operation of bulk delivery and mixing vehicles must comply with WAC 296-52-680, Transportation of explosive material, U.S. DOT placard requirements, and these requirements:

(a) **Driver training.** The vehicle driver must be:

(i) Trained in the safe operation of the vehicle, mixing, conveying, and related equipment.

(ii) Familiar with the load being delivered and general procedures for handling emergencies.

(b) **Cargo and containers.** Cargo and containers must:

(i) Haul either detonators or other explosives, but not both, it is permitted on bulk trucks provided a special wood or nonferrous-lined container is installed for explosives.

(ii) Be U.S. DOT specified shipping containers, according to 49 CFR Chapter 1.

(c) **Moving a vehicle in the blast area.** When moving a vehicle in the blast area:

(i) The driver must exercise caution to avoid driving the vehicle onto or dragging hoses over firing lines, cap wires, or explosive materials

AND

(ii) A second person must help guide the vehicle driver's movements.

(3) **Pneumatic loading.** Pneumatic loading from bulk delivery vehicles into blast holes primed with electric detonators or other static sensitive systems must comply with these requirements:

(a) A positive grounding device must be used to prevent accumulation of static electricity.

(b) A discharge hose must:

(i) Have a resistance range that will prevent conducting stray currents

OR

(ii) Be conductive, to bleed off static buildup.

(c) A qualified person must evaluate all static sensitive systems to determine if they will adequately dissipate static under potential field conditions.

(4) **Repairs.** Bulk delivery vehicle repair must comply with the requirements of this section.

(5) **Prohibited activities.** The following are prohibited:

(a) In-transit mixing of materials.

(b) While in or about bulk vehicles in the process of the mixing, transferring or down-the-hole loading of water-gels at or near the blasting site:

(i) Smoking

AND

(ii) Carrying flame producing devices including matches and firearms near bulk vehicles in the process of mixing,

transferring, or down-the-hole loading of water-gels, at or near the blast site.

NEW SECTION

WAC 296-52-67140 Bulk storage bins. (1) **Construction.** A bin, including supports, must be:

(a) Waterproof.

(b) Constructed of compatible materials.

(c) Adequately supported and braced to withstand the combined force of all loads, including impact from product movement within the bin and accidental vehicle contact with the support legs.

(2) **Discharge gates.** A bin discharge gate must be designed to lock and close tightly to prevent leakage of the stored product and to lock.

(3) **Loading manways.** Bin loading manways or access hatches must be hinged or attached to the bin and designed to lock.

(4) **Electric conveyors.** An electrically driven conveyor used for loading or unloading bins must:

(a) Comply with the requirements of WAC 296-800-280, Basic electrical rules.

(b) Be designed to minimize corrosion damage.

(5) **Separation distances.** The following separation distances must be followed:

(a) **Blasting agent bins.** Bins containing blasting agents must meet the distance requirements of:

(i) Table H-20, in reference to separation from inhabited buildings, passenger railroads, and public highways

OR

(ii) Table H-22, in reference to separation from other explosives and blasting agent storage facilities.

(b) **Ammonium nitrate bins.** Bins containing ammonium nitrate must meet the distance requirements of Table H-22 in reference to separation of blasting agent and explosives storage.

NEW SECTION

WAC 296-52-67145 Transportation of blasting agents. (1) **Public highways.** The following must comply with the United States Department of Transportation's (U.S. DOT) requirements:

(a) Packaging, marking, and labeling containers of blasting agents that are being transported on public highways.

(b) Vehicles must follow placard regulations for transporting blasting agents on public highways.

(2) **Transporting blasting agents and explosives together.** Transportation of blasting agents with explosives in the same vehicle must meet the requirements of WAC 296-52-68060, Operation of vehicles transporting explosives.

(3) **Vehicles.** Vehicles transporting blasting agents must be in safe operating condition at all times.

(4) **Prohibited activities.** The following activities are prohibited:

(a) Carrying matches, firearms, acids, or other corrosive liquids, in the bed or body of any vehicle containing blasting agents.

(b) Allowing anyone who is smoking or under the influence of intoxicants, narcotics, or other dangerous drugs to ride, drive, load, or unload a vehicle, containing blasting agents.

(c) Transporting or carrying blasting agents on any public vehicle that has paying customers.

WATER-GEL AND EMULSION EXPLOSIVES AND BLASTING AGENTS

GENERAL

Note: Water-gels and emulsions must be transported, stored, and used in the same way as explosives or blasting agents according to product classification unless stated otherwise in WAC 296-52-67150, Water-gel and emulsion explosives and blasting agents, through WAC 296-52-67170, Bulk delivery/mixing vehicles.

NEW SECTION

WAC 296-52-67160 Types and classifications. (1) **Contains explosive substance.** Water-gel and emulsion explosive materials that contain a substance classified as an explosive must be classified as an explosive.

(2) **Contains no explosive substance.** Water-gel and emulsion explosive materials that do not contain any substance classified as an explosive or as cap-sensitive (as defined under "blasting agent" in WAC 296-52-60130, Definitions) must be classified as an explosive.

Note: Water-gel formulas, which are tested and classified as a U.S. DOT Class B explosives do not require bullet resistant magazines.

(3) **Contains blasting agent substance.** Water-gel and emulsion explosive materials that do not contain any substance classified as an explosive and are not cap-sensitive (as defined under "blasting agent" in WAC 296-52-60130, Definitions) must be classified as blasting agents.

NEW SECTION

WAC 296-52-67165 Fixed location mixing. (1) **Buildings.**

(a) **Locations.**

(i) **Separation distance tables.** Buildings or other facilities used for manufacturing emulsions and water-gels must meet the separation distance requirements of Table H-21 for:

- (A) Inhabited buildings
- (B) Passenger railroads
- (C) Public highways

(ii) **Determining distance.** When determining the distances separating highways, railroads, and inhabited buildings from potential explosions (Table H-20), the sum of all masses that may propagate (i.e., lie at distances less than specified in Table H-22) from either individual or combined donor masses are included in the sum. However, when ammonium nitrate must be included, only fifty percent of its weight must be used because of its reduced blast effects.

(b) **Construction.** Buildings used for the manufacture of water-gels or emulsions must:

(i) Be constructed of noncombustible material or sheet metal on wood studs.

(ii) Have mixing plant floors made of nonabsorbent materials, such as concrete.

(iii) Be well ventilated.

(c) **Heat sources.** Heating units that are designed to be independent of the combustion process within the heating unit, may be used within processing buildings or compartments if they:

(i) Have temperature and safety controls

AND

(ii) Are located away from combustible materials and the finished product.

(d) **Internal combustion engines.**

(i) **Location.** All internal combustion engines used for electric power generation must be:

(A) Located outside the mixing plant building

OR

(B) Properly ventilated and isolated by a firewall

(ii) **Exhaust systems.** Engine exhaust systems must be located to prevent spark emissions from becoming a hazard to any materials, in or near the plant.

(f) **Fuel oil storage.**

(i) **Facilities.** Fuel oil storage facilities must be:

(A) Independent structures

(B) Located away from the manufacturing building

(ii) **Surrounding area.** In order to prevent oil from draining toward a manufacturing building in the event of a tank rupture, the surrounding grounds must slope away from the building.

(2) **Storage of water-gel and emulsion ingredients.**

(a) **Explosive ingredients.** Ingredients must be stored with compatible materials.

(b) **Nitrate water solutions.**

(i) Nitrate water solutions can be stored in tank cars, tank trucks, or fixed tanks without quantity or distance limitations.

(ii) Spills or leaks which may contaminate combustible materials must be cleaned up immediately.

(c) **Metal powders.** Metal powders, for example, aluminum, must be:

(i) Kept dry

AND

(ii) Stored in containers or bins that are moisture resistant or weather tight.

(d) **Solid fuels.** Solid fuels must be used in a way that minimizes dust explosion hazards.

(e) **Peroxides and chlorates.** Peroxides and chlorates cannot be used.

(3) **Mixing equipment.** Mixing equipment must comply with these requirements:

(a) **Design.** The design of processing equipment, including mixers, pumps, valves, conveying, and other related equipment, must:

(i) Be compatible with the relative sensitivity of other materials being handled.

(ii) Minimize the possibility of frictional heating, compaction, overloading, and confinement.

(iii) Prevent the introduction of foreign objects or materials.

(iv) Be designed to permit regular and periodic flushing, cleaning, dismantling, and inspection.

(b) **Handling procedures.** Equipment handling procedures must be designed to prevent the introduction of foreign objects or materials.

(c) **Housekeeping.**

(i) A cleaning and collection system for dangerous residues must be provided.

(ii) The mixing, loading, and ingredient transfer areas, where residues or spilled materials may accumulate, must be cleaned periodically.

(d) **Electrical equipment.** Electrical equipment must:

(i) Comply with the requirements of WAC 296-800-280, Basic electrical rules, including wiring, switches, controls, motors, and lights.

(ii) Have appropriate overload protection devices for all electric motors and generators.

(iii) Be electrically bonded with electrical generators, motors, proportioning devices, and all other electrical enclosures.

(iv) Have grounding conductors effectively bonded to:

(A) The service entrance ground connection

OR

(B) All equipment ground connections in a manner to provide a continuous path to ground

(4) **Mixing facility fire prevention.** Mixing facilities must comply with these fire prevention requirements:

(a) All direct sources of heat must only come from units located outside of the mixing building.

(b) A daily visual inspection must be made of the mixing, conveying, and electrical equipment to make sure they are in good operating condition.

(c) A systematic maintenance program must be conducted on a regular schedule.

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 296-52-67170 Bulk delivery/mixing vehicles.

(1) **Vehicle design.** The design of bulk delivery/mixing vehicles must comply with these requirements:

(a) **Public highways.** Vehicles used for the bulk transportation of emulsion, water-gels, or ingredients classified as dangerous commodities on public highways, must meet:

(i) U.S. DOT regulations, including placard requirements

AND

(ii) WAC 296-52-680, Transportation of explosive materials.

(b) **Power supply.** When electric power is supplied by a self-contained motor generator located on the vehicle, the generator must be separate from where the water-gel is discharged.

(c) **Parking brakes and chocks.** The following are requirements for parking breaks and chocks:

(i) A positive action parking brake, which will engage the wheel brakes on at least one axle, must be:

(A) Provided on vehicles equipped with air brakes

(B) Used during bulk delivery operations

(ii) Wheel chocks must supplement parking brakes whenever conditions require.

(2) **Vehicle operation.** Operation of bulk delivery and mixing vehicles must comply with these requirements:

(a) **Driver training.** The vehicle driver must be:

(i) Trained in the safe operation of the vehicle and mixing, conveying, and related equipment.

(ii) Familiar with the supplies being delivered and emergency procedures.

Pneumatic loading.

(b) **Cargo and containers.**

(i) Hauling either detonators or other explosives is permitted on bulk trucks provided a special wood or nonferrous lined container is installed for explosives.

(ii) Detonators and explosives must be in U.S. DOT specified shipping containers, according to 49 CFR Chapter 1.

(c) **Moving a vehicle in the blast area.** When moving a vehicle in the blasting area:

(i) The driver must exercise caution to avoid driving the vehicle onto or dragging hoses over firing lines, cap wires, or explosive materials.

AND

(ii) A second person must help guide the vehicle driver's movements.

(d) **Transfer locations.** The location chosen to transfer water-gel or other ingredients from a support vehicle to the drill hole loading vehicle, must be removed from the blast hole site if the drill holes are loaded or are in the process of being loaded.

(e) **Prohibited activities.** The following are prohibited:

(i) In-transit mixing of materials.

(ii) Smoking.

AND

Carrying flame-producing devices including matches and firearms near bulk vehicles in the process of mixing, transferring, or down-the-hole loading of water-gels, at or near the blast site.

UNDERWATER BLASTING OPERATIONS

NEW SECTION

WAC 296-52-67180 Separation distance from vessels and people. (1) A blast cannot be fired while any moving vessel is within one thousand five hundred feet of the blasting area.

(2) People on board vessels or crafts moored or anchored within one thousand five hundred feet must be notified before a blast is fired.

NEW SECTION

WAC 296-52-67185 Swimming and diving activities.

- (1) A blast cannot be fired while any swimmers or divers are in the vicinity of the blasting area.
- (2) If swimming and diving activities are in progress, a signaling arrangement must be agreed upon to communicate blast warnings prior to blasting.

NEW SECTION

WAC 296-52-67190 Initiation systems. Water resistant initiation systems must be used for underwater blasting.

NEW SECTION

WAC 296-52-67195 Loading tubes and casings. (1)

- When a tube is necessary, loading must be done through a nonsparking loading tube.
- (2) Loading tubes and casings must be the same type of metal to prevent electric transient currents from occurring as a result of a galvanic reaction of the metals and water.

NEW SECTION

WAC 296-52-67200 Multiple charges. (1) When more than one charge is placed underwater, a float device must be attached to an element of each charge to make sure it will be released when the charge is fired.

- (2) Blasting flags must be displayed.
- (3) Misfires must be handled according to the requirements of WAC 296-52-67110(3), Misfires.

UNDERGROUND BLASTING OPERATIONS

NEW SECTION

WAC 296-52-67210 Storage. (1) **Permanent storage.**

- The following are requirements for permanent storage:
- (a) Explosives or blasting agents cannot be permanently stored in an underground operation until at least two exit routes are developed.
 - (b) Permanent underground storage magazines:
 - (i) Must be a minimum of three hundred feet from any shaft, adit, or active underground working area.
 - (ii) Containing detonators must be a minimum of fifty feet away from any magazine containing other explosives or blasting agents.
 - (2) **Tunnels, shafts, or caissons.** Detonators and explosives cannot be stored or kept in tunnels, shafts, or caissons.

NEW SECTION

WAC 296-52-67215 Separation distance: Electrical storms. When an electrical storm is approaching, explosives at the adit, or the top of any shaft leading to where people are working, must be moved to a distance equal to the distance required for inhabited buildings (Table H-20), unless this would create a greater hazard.

NEW SECTION

WAC 296-52-67220 Proper fume class use. (1) **Fume Class 1.** Fume Class 1 explosives must be used for underground operations, as specified by the IME.

(2) **Fume Classes 2 and 3.** Explosives complying with the requirements of fume Class 2 and 3 may be used if adequate ventilation is provided.

NEW SECTION

WAC 296-52-67225 Combustible gases or dusts. Explosives cannot be loaded or used underground where combustible gases or combustible dusts exist unless approved by the Mine Safety and Health Administration (MSHA).

NEW SECTION

WAC 296-52-67230 Initiating systems. (1) **Electric systems.**

- (a) **Safety switch.** A safety switch must be:
 - (i) Placed at intervals in the permanent firing line when firing from a power circuit.
 - (ii) Made:
 - (A) So it can only be locked in the "off position"
- OR**
- (B) With a short-circuiting arrangement of the firing lines to the detonator circuit
- (b) **Lighting gap.** A lighting gap must be:
 - (i) At least five feet ahead (in the firing system) of the main firing switch, between the switch and power source.
 - (ii) Bridged by a flexible jumper cord just before firing the blast.

NEW SECTION

WAC 296-52-67235 Firing the blast. (1) **Employee evacuation.** The blaster must make sure all employees are out of the blast area before firing a blast.

- (2) **Guarding entrances.** All entrances:
 - (a) Leading into the blasting area must be carefully guarded.
 - (b) To any working place where a drift, raise, or other opening is about to hole through must be carefully guarded.
- (3) **Warning signals.** A warning must be given before firing an underground blast. See Table T-1 for signaling requirements.

TABLE T-1	
WARNING SIGNAL	A 1 minute series of long blasts 5 minutes prior to blast signal.
BLAST SIGNAL	A series of short blasts 1 minute prior to the shot.
ALL CLEAR SIGNAL	A prolonged blast following the inspection of the blast.

PERMANENT

NEW SECTION

WAC 296-52-67240 Returning to the blast. (1) **Smoke and fumes.** The blaster in charge must wait a minimum of fifteen minutes to allow smoke and fumes to clear before returning to the shot.

(2) **Muck pile.** Workers cannot return to work until the muck pile has been watered down.

NEW SECTION

WAC 296-52-67245 High speed tunneling: Central primer house.

Note: The following requirements apply when primers are made up at a central primer house for use in high speed tunneling:

(1) **Primers.**

(a) Only enough primer must be made for each round of blasting.

(b) Primers must be placed in separate containers and bins, categorized by the degree of delay in preventing physical impact.

(2) **Separation of explosives in magazines.** Explosives transported in the same magazine must be separated by:

(a) One-quarter inch steel

AND

(b) Covered on each side by four inches of hardwood planking or equivalent protection.

PART D**TRANSPORTATION OF EXPLOSIVE MATERIALS**

Note: Requirements for transportation of blasting agents are located at WAC 296-52-67145, Transportation of blasting agents.

SCOPENEW SECTION

WAC 296-52-68010 Public highways. Transportation of explosives on public highways are:

• Regulated by:

– United States Department of Transportation (U.S. DOT) (49 CFR, Parts 100 - 199)

– The Washington utilities and transportation commission

• Administered and enforced by the Washington state patrol.

NEW SECTION

WAC 296-52-68015 Job sites and off highway roads. The transportation rules in this chapter apply to:

- On job sites and off highway roads
- Privately financed, constructed, or maintained roads

Note: These rules do not apply to state or interstate highway systems.

NEW SECTION

WAC 296-52-68020 Safety precautions. No one may:

• Smoke or carry matches, or any other flame producing device, while in or near a vehicle transporting explosives

• Carry firearms or ammunition while in or near a vehicle transporting explosives, except guards or commissioned law enforcement officers

• Drive, load, or unload a vehicle transporting explosives in a careless or reckless manner.

NEW SECTION

WAC 296-52-68025 Transportation of workers. Only the driver and two additional people are allowed in vehicles transporting explosives. Explosives cannot be carried when additional workers are being transported.

NEW SECTION

WAC 296-52-68030 Cargo. Materials and supplies cannot be placed in the cargo space of vehicles or conveyance containing:

- Explosives
- Detonating cord

OR

- Detonators.

Note: It is okay to transport safety fuses and properly secured nonsparking equipment in cargo spaces.

TRANSPORTATION VEHICLESNEW SECTION

WAC 296-52-68040 Vehicle strength and condition. All vehicles used for transporting explosives must:

- Be strong enough to carry the load without difficulty
- Be in good mechanical condition
- Have a tight floor in the cargo compartment(s)
- Not have any exposed spark producing metal inside the vehicle, which could come in contact with explosives.

NEW SECTION

WAC 296-52-68045 Open top vehicles. (1) **Locations of use.** While loaded with explosives, open top vehicles must only be used on:

- The job site

OR

- Roads that are closed to public travel

(2) **Containers.** Explosives being transported in open top vehicles or trailers must be transported in:

- The original U.S. DOT approved shipping container or box

OR

• A day box or portable magazine that complies with the requirements of this chapter

(3) **Securing containers.** Explosive containers, boxes, day boxes, or portable magazines must be fastened to the bed of the vehicle or trailer.

(4) **Loading.** Packages of explosives cannot be loaded above the sides on open top vehicles.

(5) **Tarpaulins (tarps).**

- If an explosives transportation vehicle or trailer does not have a fully enclosed cargo area with nonsparking interior, the cargo bed and all explosive cargo must be covered with a flame and moisture proof tarp or other effective protection against moisture and sparks

- Whenever tarps are used for covering explosives, both the tarp and the explosives container must be fastened to the body of the truck bed with rope, wire, or other equally efficient tie downs.

NEW SECTION

WAC 296-52-68050 Vehicle placards. All vehicles transporting explosives material must have placards. They must:

- Be displayed as specified by U.S. DOT
- Remain on the vehicle until all explosives have been removed.

NEW SECTION

WAC 296-52-68055 Vehicle fire protection. (1) **Fire extinguishers.**

- **Driver training.** The driver must be trained to use the fire extinguishers on the vehicle

- **Equipment specifications.** Vehicles used for transporting explosive materials must be equipped with fire extinguishers according to the gross vehicle weight:

- Less than 14,000 pounds: A minimum of two multi-purpose dry-chemical extinguishers having a combined capacity of at least 4-A:20-B:C

- 14,000 pounds or greater: A minimum of two multi-purpose drychemical extinguishers having a combined capacity of at least 4-A:70-B:C

- **Laboratory approval.** Only fire extinguishers approved by a nationally recognized testing laboratory can be used on vehicles carrying explosives

- **Condition and location.** Fire extinguishers must be filled, ready for immediate use, and easily reached

- **Inspection.** A competent person must inspect fire extinguishers periodically. You must comply with the requirements of WAC 296-800-30020, Inspect and test all portable fire extinguishers

(2) **Vehicle inspection.** Any motor vehicle used for transporting explosives must have a safety inspection. The inspection must verify that:

- Fire extinguishers are filled and in working order
- All electrical wiring is protected and securely fastened to prevent short circuiting
- Chassis, motor, pan, and underside of body are reasonably clean and free of excess oil and grease
- Fuel tank and feedline are secure and have no leaks
- Tires are checked for proper inflation and defects
- Brakes, lights, horn, windshield wipers, and steering apparatus are functioning properly

- The vehicle is in proper condition in every other respect and acceptable for handling explosives

(3) **Vehicle repair/servicing.** Motor vehicles or conveyances carrying explosives, blasting agents, or blasting supplies cannot be repaired or serviced inside a garage or shop when carrying explosive material.

NEW SECTION

WAC 296-52-68060 Operation of vehicles transporting explosives. (1) **Authorized explosives transportation.** Explosives may only be transported by a:

- Licensed manufacturer
- Blaster
- Purchaser, seller, or their designated representative

OR

- Contract carrier for hire who complies with all requirements for transportation of hazardous materials

(2) **Driver qualifications.**

(a) Vehicles transporting explosives must be driven by a responsible licensed driver who is:

- At least twenty-one years old
- Physically fit
- Careful
- Capable
- Reliable
- Able to read and write the English language
- Not addicted to or under the influence of intoxicants, narcotics, or other dangerous drugs. (This does not apply to people taking prescription drugs and/or narcotics as directed by a physician, as long as use of the prescription drug does not endanger the worker or others.)

(b) The driver must be:

- Familiar with all:
 - Traffic regulations
 - Department of Transportation (U.S. DOT) and other state laws in the transportation of explosives and hazardous material laws

- Aware of:
 - What they are carrying
 - Safety precautions for the explosives being transported

(3) **Parking - Class A or B explosives.** A vehicle that contains Class A or B explosives cannot be parked:

- On or within five feet of the traveled portion of a public street or highway
- On private property, including fueling or eating facilities, without the knowledge and consent of the person. The person in charge must be aware of the hazardous materials in the vehicle

OR

- Within three hundred feet of a bridge, tunnel, dwelling, building, or place where people work, congregate, or assemble

Exemption: These restrictions do not apply when:

- Routine operations require the vehicle be parked for a brief period of time
- It is impractical to park the vehicle any other place

(4) **Vehicle attendance.** A vehicle transporting any quantity of Class A or B explosives must be attended at all

times by a driver or other representative of the vehicle carrier, exceptions are:

- A vehicle containing explosive materials may be left unattended for a period not to exceed forty-eight hours provided:

- The vehicle is parked in a designated parking lot, which complies with NFPA Std. 498 and the appropriate distance table for the type and quantity of explosives.

- The parking lot must:

- Be correctly bermed, walled, or fenced, and gated to prevent unauthorized entry

- Be inspected and approved by the department

- Provide a full-time, continuous security patrol when explosives are present

- An explosives delivery truck does not need to be attended when it only contains International Class 1.5 D blasting agents and no high explosives, provided the:

- Vehicle is locked so it cannot be moved

- Cargo compartments are locked to prevent theft

- Vehicle is parked according to all applicable storage distance requirements

- Vehicle is located in a secured area that restricts entry of unauthorized personnel

(6) **Attendant.**

(a) An authorized attendant must be physically present and able to see the explosives at all times.

(b) In an emergency, the attendant must be able to quickly get to the explosives without interference.

(c) The attendant must:

- Be awake

- Be alert

- Not be engaged in activities, which could divert their attention

- Be aware of the class of explosive material and its dangers

- Be instructed in the methods and procedures used to protect the public

- Be familiar with the particular vehicle being driven

- Be trained in the use of the vehicle

- Have authorization and be able to move the vehicle if required

(7) **Loading precautions.** A vehicle must comply with U.S. DOT loading regulations in order to transport explosives in the same vehicle body with the following items:

- Spark producing metal

- Spark producing tools

- Oils

- Matches

- Firearms

- Electric storage batteries

- Flammable substances

- Acids

- Oxidizing materials

OR

- Corrosive compounds

(8) **Congested areas.** Vehicles transporting explosives must avoid congested areas and heavy traffic.

(9) **Disabled vehicles.**

- A qualified person must be present before explosives can be transferred from a disabled vehicle to another vehicle

- If a vehicle becomes disabled in a congested area, you must promptly notify local fire and police authorities. In a remote area they may be notified if necessary.

(10) **Explosives delivery and issue.** Delivery and issue of explosives must be made:

- Only by and to authorized people

- Into authorized magazines or authorized temporary storage or handling areas.

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 296-52-68065 Transporting detonators and explosives in the same vehicle. (1) Fuse type detonators, detonators with a safety fuse, or detonators with a metal clad mild detonating fuse, cannot be transported in the same vehicle or trailer with other explosives, unless they comply with U.S. DOT hazardous material regulations for:

- Packaging

- Separation

- Transportation

(2) Detonators rated as nonmass detonating by U.S. DOT may be transported in the same vehicle or trailer with other explosives when the:

- Detonators are carried in U.S. DOT approved shipping containers

OR

- Truck or trailer complies with the requirements of IME Safety Library Publication Number 22, May 1993.

NEW SECTION

WAC 296-52-68075 Powder cars, vehicles, and conveyances. In underground blasting operations, explosives and blasting agents must be hoisted, lowered, or transported in a powder car.

(1) **State approval.** A state-approved powder car or conveyance must be used underground.

(2) **Two-unit compartments.** Compartments for transporting detonators and explosives together on the same conveyance must be physically separated by a:

- Distance of twenty-four inches

OR

- Solid partition a minimum of six inches thick

(3) **Auxiliary lights prohibited.** Auxiliary lights that are powered by an electrical system on a truck bed are prohibited.

(4) **Daily inspection.** The powder car or conveyance must be inspected daily for:

- Properly working lights

- Properly working brakes

- External damage to electrical circuitry

(5) **Weekly inspection.** Weekly inspections must:

- Be conducted on the electrical system, to assess electrical hazards

- Include a written inspection certification record that:
 - Contains the date of inspection, the serial number, or other positive identification of the unit being inspected, and the signature of the person performing the inspection
 - Is kept on file for the duration of the job

(6) **Explosives warning sign.** Powder cars or conveyance built for transporting explosives or blasting agents must have signs posted on each side of the car that:

- State "EXPLOSIVES"
- Use letters a minimum of four inches high
- Have a background color that sharply contrasts with the letters.

NEW SECTION

WAC 296-52-68080 Notification—Hoist operator. Hoist operators must be notified before explosives or blasting agents are transported in a shaft conveyance.

NEW SECTION

WAC 296-52-68085 Underground transportation.

(1) **Explosives and blasting agents.** These requirements must be followed when transporting explosives and blasting agents underground:

- **Companion items.**
 - Explosives or blasting agents cannot be transported in the same shaft conveyance with other materials, supplies, or equipment
 - Detonators and other explosives cannot be transported in the same shaft conveyance

• **Manual transportation.** Explosives or blasting agents that are not in their original containers must be placed in a suitable container when transported manually

• **Car or conveyance.** The car or conveyance containing explosives or blasting agents must be pulled and not pushed

• **Locomotives.** Explosives or blasting agents must:

- Not be transported on any locomotive
- Be separated by a minimum of two car lengths from the locomotive

• **Riding on a conveyance.** When transporting explosives or blasting agents, no one can ride on:

- A shaft conveyance
- OR**
- Any other conveyance, except the operator, helper, or powder person

• **Crew haul trips.** Explosives or blasting agents cannot be transported on a crew haul trip

• **Disposition at arrival.** All explosives or blasting agents that are transported underground must immediately be taken to the place of use or storage

(2) **Quantity limit.** The quantity of explosives or blasting agents taken to an underground loading area cannot exceed the amount estimated to be necessary for the blast.

(3) **Unloading primers at the blast site.** Primers must be:

- Unloaded after drilling has been completed and the holes in the round are ready for loading
- Unloaded from the powder car at the face or heading

- Removed from the powder car for only the exact number being used for the round
- The powder car must be removed from the tunnel after the charge has been loaded

(4) **Electric detonators.** Wires on electric detonators must be kept shunted until wired to the bus wires.

**PART E
STORAGE OF EXPLOSIVE MATERIALS**

NEW SECTION

WAC 296-52-69005 Detonators. Detonators must not be stored in magazines where other explosives are stored.

NEW SECTION

WAC 296-52-69010 Explosives. All Class A, B, and C explosives, special industrial explosives, and any newly developed unclassified explosives, must be kept in magazines that meet the requirements of RCW 70.74.120 and this chapter, unless the explosives are:

- In the manufacturing process
 - Being physically handled
 - Being used at the blast site
- OR**
- Being transported to a place of storage or use.

NEW SECTION

WAC 296-52-69015 Exempt explosives. Explosives exempt from these storage requirements are:

Type of Explosive	Exempted Amount
Stocks of: <ul style="list-style-type: none"> • Small arms ammunition, • Propellant-actuated power cartridges, and • Small arms ammunition primers 	Quantities less than 750,000
Smokeless propellants	Quantities less than 150 pounds
Black powder (as used in muzzleloading firearms)	Quantities less than 5 pounds
Explosive-actuated power devices	Quantities less than 50 pounds net weight of explosives
Fuse lighters and igniters	(not applicable)
Safety fuses (except cordeau detonant fuses)	(not applicable)

NEW SECTION

WAC 296-52-69020 Storage facilities. Explosives, except as specified in WAC 296-52-69015, and detonators in quantities of more than one thousand must be stored in permanent Class 1 magazines or approved and licensed magazines.

- Note 1:** Components storage.
Any two components when mixed, and become capable of detonation by a #6 detonator, must be stored in separate locked containers or a licensed, approved magazine.
- Note 2:** Electro magnetic radiation precautions.

PERMANENT

Blasting operations or storage of electrical detonators are prohibited in the area of operation radio frequency (RF) transmitter stations except where the clearances (WAC 296-52-67060, Extraneous electricity and radio frequency (RF) transmitters) can be observed.

Note 3: Detonators, electric detonators, detonating primers, and primed cartridges.

Detonators, electric detonators, detonating primers, and primed cartridges cannot be stored together or in the same magazine with other explosives.

Note 4: Ammonium perchlorate rocket motors.

Ammonium perchlorate rocket motors in weighing more than 62.5 grams but not more than 50 pounds total weight explosives, may be stored in an attached garage of a single family residence if the living area is separated by a fire wall with a one-hour minimum fire resistance.

NEW SECTION

WAC 296-52-69025 Quantity and distance tables. All explosive manufacturing buildings and magazines that store explosives or blasting agents (except small arms ammunition and smokeless powder), must meet the requirements as specified in:

- Table H-20, Distances for Storage of Explosives
- Table H-21, Distance Table for Separation between Magazines

• Table H-22, Separation Distance of Ammonium Nitrate and Blasting Agent from Explosives or Blasting Agents.

NEW SECTION

WAC 296-52-69030 Storage within magazines. (1) **Storage materials.** Magazines cannot be used for storage of metal tools or any commodity other than:

- Explosives
- Blasting agents
- Blasting supplies

(2) Black powder.

• Black powder must be stored separately from other explosives in a magazine

• Kegs must be stored on end, bungs down, on sides, seams down

(3) Age/or date mark. Explosives that are not already age/or date marked by the manufacturer, must be marked with the manufacturing date before being stored in the magazine.

Note: Unidentified explosives confiscated by law enforcement may be marked with the confiscation date, if the manufacturer's date is unknown.

(4) Grades and brands.

• Identical grades and brands of explosives must be stored together, with the brands and grade marks showing

• Explosive materials must be stored so they can be easily checked and counted

(5) Package placement. Explosive packages must be:

- Placed right side up
- Stacked so they are stable

(6) Ventilation. Explosive material cannot be:

- Stored where they could interfere with ventilation

OR

- Placed less than two inches from the interior walls

Note: Nonsparking lattice or other nonsparking material may be used to prevent contact of stored explosive material with interior walls.

(7) Housekeeping.

- Magazine floors must be:

– Regularly swept and the sweepings properly disposed of

– Kept clean and dry

– Free of grit, paper, and used packages or rubbish

• Brooms and other cleaning tools cannot have any spark producing metal parts

• Floors stained with nitroglycerin must be cleaned according to the manufacturer's instructions

(8) Unpacking or repacking explosives.

• Containers of explosives (except for fiberboard or other nonmetal containers) cannot be unpacked or repacked:

– In a magazine

– Within fifty feet of a magazine

OR

– Near other explosives

• Opened packages of explosives must be securely closed before returning them to a magazine

• Tools used for opening packages of explosives must be constructed of nonsparking materials

• A wood wedge and a fiber, rubber, or wood mallet must be used for opening or closing wooden crates of explosives.

NEW SECTION

WAC 296-52-69035 Storage limits. More than 300,000 pounds of explosive materials or 20,000,000 of detonators cannot be stored in the same storage magazine.

NEW SECTION

WAC 296-52-69040 Notification of fire safety authority. Any person who stores explosive material must notify the local fire safety authority, who has jurisdiction over the area where the explosive material is stored.

(1) The local fire safety authority must be notified:

- Orally, on the first day explosive materials are stored
- In writing, within forty-eight hours, from the time the explosive material was stored

(2) The notification must include the following for each site where explosive material is stored:

- Type of explosives
- Magazine capacity
- Location.

NEW SECTION

WAC 296-52-69045 Magazine repairs. Before beginning repair activities that could cause sparks or fire:

• All explosives must be removed from the magazine under repair and placed in another magazine or a safe distance away

• Explosives must be properly guarded until they are returned to the magazine

- The floor must be cleaned before beginning repairs inside a magazine.

NEW SECTION

WAC 296-52-69050 Inventory. (1) A qualified person must be:

- Responsible for the magazine at all times
- At least twenty-one years old
- Held responsible for the enforcement of all safety requirements

(2) Explosives must:

- Be accounted for at all times
- Be kept in a locked magazine when not in use
- Not be easily accessed by unauthorized persons

(3) Inventory and use records must be kept up to date for all explosives.

(4) Any person responsible for explosives who discovers a theft or loss of explosives must report the incident to local law enforcement within twenty-four hours.

(5) Law enforcement agencies must report a theft or loss of explosives to the department immediately.

(6) Other people who know of attempted or actual unauthorized magazine entry must report this information to local law enforcement.

NEW SECTION

WAC 296-52-69055 Inspection. (1) **Weekly inspection.**

(a) The person or company responsible for the contents of the magazine must inspect the magazine at least every seven days to determine whether there has been an unauthorized:

- Attempted entry into the magazine

OR

- Removal of explosives from the magazine

(b) The person doing the inspection must be familiar with the magazine and its contents.

Note: This inspection does not need to be an inventory.

(2) **Inspection documentation.**

(a) The person doing the inspection must sign one of the following documents after completing the inspection:

- A weekly inspection log
- An inventory sheet

OR

- Other record

(b) Weekly inspection records must be kept for at least one year.

NEW SECTION

WAC 296-52-69060 Precautions for areas surrounding magazine. (1) **Firearms.** Only qualified guards and qualified law enforcement officers are allowed to carry firearms inside or within fifty feet of a magazine.

(2) **Area maintenance.** The area surrounding magazines must:

- Be kept clear of rubbish, brush, dry grass, or trees, except live trees more than ten feet tall, for a minimum of twenty-five feet in all directions

- Be free of volatile materials for a minimum of fifty feet from outdoor magazine

- Have the ground around storage facilities slope away for drainage; living foliage does not need to be removed

(3) **Fire sources.** Smoking, matches, open flames, and spark producing devices are not permitted:

- In any magazine
- Within fifty feet of an outdoor magazine

OR

- In any room containing an indoor magazine

(4) **Warning sign.**

(a) **Access routes.** All normal access routes to explosive material storage facilities, except Class 3 (1.4) magazines, must be posted with warning signs that read:

DANGER

**NEVER FIGHT EXPLOSIVE FIRES
EXPLOSIVES ARE STORED ON THIS SITE**

CALL _____

(b) **Sign specifications and placement.** Signs must:

- (i) Be contrasting in color
- (ii) Have the pin stroke of the letters a minimum of three inches (75 mm) high and one-half inch (12.5 mm) wide
- (iii) Be placed so a bullet passing through the sign will not strike a magazine
- (iv) Not be attached to magazines

(c) **Transportation placards.** Placards required by the U.S. Department of Transportation (DOT) (49 CFR) for transporting blasting agents must be displayed on all Class 5 magazines where blasting agents are stored.

NEW SECTION

WAC 296-52-69065 Deteriorated explosives.

• Explosives must be immediately destroyed, according to the manufacturer's recommendations, whenever they are suspected of deteriorating to the point they are:

- Unstable
- Dangerous
- Leaking nitroglycerine

- Only a licensed blaster may destroy explosives.

NEW SECTION

WAC 296-52-69070 Explosives recovered from misfires.

• **Storage.** Explosives recovered from misfires must be placed in a separate licensed magazine until they can be disposed of according to the manufacturer's recommendations

• **Detonator use.** Detonators suspected of being defective cannot be reused

• **Disposal.** The blaster in charge must dispose of explosives and detonators according to the manufacturer's recommendations.

NEW SECTION

WAC 296-52-69080 Blast site storage. (1) **Location.** Temporary storage for explosives at blast sites must be located away from:

- Inhabited buildings
- Railways
- Highways
- Other magazines

(2) **Separation distance.** A distance must be maintained between magazines and the blast site. This distance must be a minimum of:

- One hundred fifty feet when the quantity of explosives is greater than twenty-five pounds
- Fifty feet when the quantity of explosives is twenty-five pounds or less.

NEW SECTION

WAC 296-52-69085 Multiple magazines. (1) **Separation distance.** When two or more storage magazines are located on the same property, each magazine must comply with the minimum quantity of explosives and separation distance requirements for:

- Magazines (Table H-21)
- Inhabited buildings, railways, and highways (Table H-20)

(2) **Distances that do not meet requirements.** If the separation distance between two or more magazines is less than the distance required (Table H-21), the magazines must:

- Be considered one magazine

AND

• Comply with the minimum distance requirements for inhabited buildings, railways, and highways (Table H-20)

(3) **Distance of grouped magazines to other magazines.** Each magazine in a group must comply with minimum magazine distance requirements (Table H-21) in relation to other magazines not considered part of the group.

(4) **Quantity of explosives.**

(a) **Magazine group.** The total quantity of explosives stored in a magazine group (two or more) must:

- Be considered one magazine
- Not exceed the requirements of Table H-21 for one magazine

(b) **Detonator magazine.** The quantity of explosives contained in a detonator magazine takes precedence over the minimum magazine distance requirements (Table H-21) when determining the separation distance required between a detonator magazine and magazines that contain other types of explosives.

(c) **Detonator strength.** Strengths of blasting and electric detonators:

- Up to #8 detonators must be rated as one and one-half pounds of explosives per one thousand detonators
- Detonators greater than #8 must be computed on the combined weight of explosives.

NEW SECTION

WAC 296-52-69090 Blasting agents and supplies. (1) **Storage.**

Note: You may store blasting agents with nonexplosive blasting supplies.

(a) When stored with explosives, blasting agents or ammonium nitrate must be stored as required in magazine construction.

(b) When computing the total quantity of explosives, the mass of blasting agents and one-half the mass of ammonium nitrate must be included when determining the distance requirements.

(c) When stored separately from explosives, blasting agents and ammonium nitrate must be stored as required in this chapter

OR

Warehouses which are:

- One story without basements
- Noncombustible or fire resistant
- Constructed so there are no open floor drains and piping where molten materials could flow and be trapped in case of fire

• Weather resistant

• Well ventilated

• Equipped with a strong door which is securely locked except when open for business

(d) Semi-trailer or full trailer vans used for highway or on-site transportation of blasting agents. They must:

- Comply with location requirements for inhabited buildings, passenger railways, and public highways in Table H-20
- Be in accordance with the distance requirements in Table H-22

• Have substantial means for locking and the trailer doors must be kept locked except during the time of placement or removal of blasting agents

(e) Storage warehouses for blasting agents:

• Must comply with the location requirements for inhabited buildings, passenger railways, and public highways in Table H-20

• Must be in accordance with the distance requirements in Table H-22

(f) Combustible materials, flammable liquids, corrosive acids, chlorates, or nitrates cannot be stored in warehouses used for blasting agents unless they are separated by a fire resistant wall with a minimum of one-hour fire resistance.

(g) A competent person, at least twenty-one years old, must supervise every warehouse used for the storage of blasting agents.

(2) **Combustible materials.** These activities and items are prohibited within fifty feet (15.2 m) of any warehouse used for storing blasting agents:

- Smoking
- Matches
- Open flames
- Spark producing devices
- Fire-arms

(3) **Housekeeping.** The interiors of warehouses used for storing blasting agents must be:

- Kept clean, and free from debris and empty containers

PERMANENT

- All spilled materials must be promptly cleaned.

NEW SECTION

WAC 296-52-69095 Ammonium nitrate. (1) Storage.

(a) Ammonium nitrate storage requirements do not apply to:

- The transportation of ammonium nitrates while under the jurisdiction of and in compliance with U.S. DOT regulations (see 49 CFR, Part 173)

- The storage of ammonium nitrates while under the jurisdiction of and in compliance with U.S. Coast Guard (see 49 CFR, Parts 146-149)

- The storage of ammonium nitrate and ammonium nitrate mixtures, which are more sensitive than allowed by the bulletin

"Definition and test procedures for ammonium nitrate fertilizers" from the Fertilizer Institute 501 2nd St. NE, Washington, DC 20006.

This definition limits the contents of organic materials, metals, sulfur, etc., in products that may be classified ammonium nitrate fertilizer.

- The production of ammonium nitrate or the storage of ammonium nitrate on the premises of the producing plant, if no hazards are created to the employees or public

- The standards for ammonium nitrate (nitrous oxide grade) that are found in the:

"Specifications, properties and recommendations for packaging, transportation, storage and use of ammonium nitrate," from the Compressed Gas Association, Inc., 1235 Jefferson Davis Highway, Suite 1004, Arlington, VA 22202-4100.

(b) Ammonium nitrate storage requirements apply to:

- Anyone, in addition to the owner or lessee of any building, premises, or structure having or storing ammonium nitrate in quantities of one thousand pounds (425 kg) or more

- Ammonium nitrate in the form of crystals, flakes, grains, or prills including fertilizer grade, dynamite grade, nitrous oxide grade, technical grade, and other mixtures containing sixty percent or more ammonium nitrate by weight

Note: The approval of large quantity storage is based on the fire and explosion hazards, including exposure to toxic vapors from burning or decomposing ammonium nitrate.

(c) Storage buildings housing ammonium nitrate must:

- Have adequate ventilation or be self-ventilating in the event of a fire

- Have fire resistant walls when the exposed side of a storage building is within fifty feet (15.2 m) of a combustible building, forest, piles of combustible materials, and similar exposure hazards. Other suitable means of exposure protection such as a freestanding wall may be used instead of a fire resistant wall

- Have roof coverings that are Class C or better as defined in Roof Coverings, NFPA 203M-1970

- Have flooring of noncombustible material or be protected against saturation by ammonium nitrate. In case of fire, the floor must not have open drains, traps, tunnels, pits, or pockets into which molten ammonium nitrate could flow and be confined

- Be dry and free from water seepage through the roof, walls, and floors

- Not have basements, unless the basements are open on at least one side

- Not be over one story in height

Note: The continued use of an existing storage building or structure may be approved in cases where continued use will not constitute a hazard to life or adjoining property.

Bags, drums, and other containers of ammonium nitrate must:

(d) Comply with specifications and standards required for use in interstate commerce (see 49 CFR, Chapter 1). Containers used on the premises in the actual manufacturing or processing do not need to comply.

- Not be used for storage when the temperature of the ammonium nitrate exceeds 130°F (54.4°C)

- Not be stored within thirty inches (76 cm) of the storage building walls and partitions

- Not be stacked higher than twenty feet (6.1 m) in height, twenty feet (6.1 m) in width, and fifty feet (15.2 m) in length. When buildings are constructed of noncombustible materials or protected by automatic sprinklers, there are no stacking height restrictions

- Never be stacked closer than thirty-six inches (.09 m) below the roof or overhead supporting and spreader beams

- Be separated by aisles a minimum of 3 feet wide. There must be one main aisle in the storage area a minimum of four feet (1.2 m) wide

(e) Bulk ammonium nitrate must be stored:

- In warehouses with adequate ventilation or be capable of adequate ventilation in case of fire

- In structures that are not more than forty feet (12.2 m) high, unless:

- They are constructed of noncombustible material

OR

- Have adequate facilities for fighting a roof fire

- In clean bins that are free of materials that could cause contamination

- In bins or piles that are clearly identified by signs reading "AMMONIUM NITRATE" in letters a minimum of two inches (5 cm) high

- In bins or piles sized and arranged so all material is moved periodically to minimize the possibility of caking

- Adequately separated from easily combustible fuels.

Bins cannot be made of galvanized iron, copper, lead, and zinc because of the:

- Corrosive and reactive properties of ammonium nitrate

AND

- To avoid contamination

- In tightly constructed wooden and aluminum bins that are protected against saturation from ammonium nitrate

- In tightly constructed partitions that divide the ammonium nitrate from other products to avoid contamination

- Where the temperature of the product does not exceed 130°F (54.4°C)

- No higher than thirty-six inches (0.9 m) below the roof or overhead supporting and spreader beams if stacked in piles. Stack limits (height and depth), should be determined by the pressure setting tendency of the product

(f) Bulk ammonium nitrate when caked, cannot be broken up or loosened by the use of dynamite, other explosives or blasting agents.

(g) Bulk ammonium nitrate cannot be stored with:

- LP Gas on the premises except when such storage complies with WAC 296-24-475, Storage and handling of liquefied petroleum gases

- Sulfur and finely divided metals in the same building except when such storage complies with this chapter and NFPA standard 495, Explosives Materials Code

- Explosives and blasting agents in the same building except on the premises of manufacturers, distributors, and user of explosives or blasting agents

- When explosives or blasting agents are stored in separate buildings, other than on the approval of manufacturers, distributors, and user, they must be separated from the ammonium nitrate by the distances and/or barricades specified in Table H-22 or a minimum of fifty feet (15.2 m)

- With flammable liquids, such as gasoline, kerosene, solvents, and light fuel oils on the premises except when such

storage conforms to WAC 296-24-330, Flammable and combustible liquids, and when walls, sills or curbs are provided in accordance with WAC 296-52-69095, Ammonium nitrate

(2) Contaminants must be stored in a separate building from ammonium nitrate

OR

Be separated by an approved firewall of not less than one-hour fire resistance rating which should extend to the underside of the roof. Alternatively, the contaminants may be separated by a minimum of thirty feet (9.1 m), instead of using walls. These contaminants are:

- Organic chemicals
- Acids
- Other corrosive materials
- Materials that may require blasting during processing or handling
- Compressed flammable gases
- Flammable and combustible materials
- Other substances including:

Animal fats	Baled cotton	Baled rags	Baled scrap paper
Bleaching powder	Burlap or cotton bags	Caustic soda	Coal
Coke	Charcoal	Cork	Camphor
Excelsior	Fibers of any kind	Fish oil	Fish meal
Foam rubber	Hay	Lubricating oil	Linseed oil
Other oxidizable or drying oils	Naphthalene	Oakum	Oiled clothing
Oiled paper	Oiled textiles	Paint	Straw
Sawdust	Wood shavings	Vegetable oil	

(3) Housekeeping requirements must have:

- Electrical installations, which meet the requirements of chapter 296-24 WAC, Part L, Electrical, and WAC 296-800-280, Basic electrical rules, for ordinary locations and be designed to minimize damage from corrosion

- Adequate lightning protections in areas where lightning storms are prevalent (see NFPA 78-1992, Lightning Protection Code)

- Procedures to prevent unauthorized personnel from entering the ammonium nitrate storage area

(4) Fire protection must provide:

- Water supplies and fire hydrants

- Suitable fire control devices, such as a small hose or portable fire extinguishers, throughout the warehouse and in the loading/unloading areas. These devices must comply with the requirements of WAC 296-800-300, Portable fire

extinguishers, and WAC 296-24-602, Standpipe and hose systems

- Approved sprinkler systems installed according to WAC 296-24-607, Automatic sprinkler systems

- Two thousand five hundred tons (two thousand two hundred seventy metric) or less of bagged ammonium nitrate may be stored in a structure that does not have an automatic sprinkler system.

QUANTITY AND DISTANCE TABLES

NEW SECTION

WAC 296-52-69105 Table H-20—Table of distances for storage of explosives.

**Table H-20
Table of Distances for Storage of Explosives**

Quantity of Explosive		Distances (in Feet)					
(In Pounds)		Inhabited Buildings		Public Highways with Traffic Volume 3,000 or Less Vehicles Per Day		Passenger Railways and Public Highways: With Traffic Volume of More Than 3,000 Vehicles Per Day	
Over	Not Over	Barricaded	Unbarricaded	Barricaded	Unbarricaded	Barricaded	Unbarricaded
0	5	70	140	30	60	51	102
5	10	90	180	35	70	64	128

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Quantity of Explosive		Distances (in Feet)					
(In Pounds)		Inhabited Buildings		Public Highways with Traffic Volume 3,000 or Less Vehicles Per Day		Passenger Railways and Public Highways: With Traffic Volume of More Than 3,000 Vehicles Per Day	
Over	Not Over	Barricaded	Unbarricaded	Barricaded	Unbarricaded	Barricaded	Unbarricaded
10	20	110	220	45	90	81	162
20	30	125	250	50	100	93	186
30	40	140	280	55	110	103	206
40	50	150	300	60	120	110	220
50	75	170	340	70	140	127	254
75	100	190	380	75	150	139	278
100	125	200	400	80	160	150	300
125	150	215	430	85	170	159	318
150	200	235	470	95	190	175	350
200	250	255	510	105	210	189	378
250	300	270	540	110	220	201	402
300	400	295	599	120	240	221	442
400	500	320	640	130	260	238	476
500	600	340	680	135	270	253	506
600	700	355	710	145	290	266	532
700	800	375	750	150	300	278	556
800	900	390	780	155	310	289	578
900	1,000	400	800	160	320	300	600
1,000	1,200	425	850	165	330	318	636
1,200	1,400	450	900	170	340	336	672
1,400	1,600	470	940	175	350	351	702
1,600	1,800	490	980	180	360	366	732
1,800	2,000	505	1,010	185	370	378	756
2,000	2,500	545	1,090	190	380	408	816
2,500	3,000	580	1,160	195	390	432	864
3,000	4,000	635	1,270	210	420	474	948
4,000	5,000	685	1,370	225	450	513	1,026
5,000	6,000	730	1,460	235	470	546	1,092
6,000	7,000	770	1,540	245	490	573	1,146
7,000	8,000	800	1,600	250	500	600	1,200
8,000	9,000	835	1,670	255	510	624	1,248
9,000	10,000	865	1,730	260	520	645	1,290
10,000	12,000	875	1,750	270	540	687	1,374
12,000	14,000	885	1,770	275	550	723	1,446
14,000	16,000	900	1,800	280	560	756	1,512
16,000	18,000	940	1,880	285	570	786	1,572
18,000	20,000	975	1,950	290	580	813	1,626
20,000	25,000	1,055	2,000	315	630	876	1,752
25,000	30,000	1,130	2,000	340	680	933	1,866
30,000	35,000	1,205	2,000	360	720	931	1,962
35,000	40,000	1,275	2,000	380	760	1,026	2,000
40,000	45,000	1,340	2,000	400	800	1,068	2,000
45,000	50,000	1,400	2,000	420	840	1,104	2,000

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Quantity of Explosive		Distances (in Feet)					
(In Pounds)		Inhabited Buildings		Public Highways with Traffic Volume 3,000 or Less Vehicles Per Day		Passenger Railways and Public Highways: With Traffic Volume of More Than 3,000 Vehicles Per Day	
Over	Not Over	Barricaded	Unbarricaded	Barricaded	Unbarricaded	Barricaded	Unbarricaded
50,000	55,000	1,460	2,000	440	880	1,140	2,000
55,000	60,000	1,515	2,000	455	910	1,173	2,000
60,000	65,000	1,565	2,000	470	940	1,206	2,000
65,000	70,000	1,610	2,000	485	970	1,236	2,000
70,000	75,000	1,655	2,000	500	1,000	1,263	2,000
75,000	80,000	1,695	2,000	510	1,020	1,293	2,000
80,000	85,000	1,730	2,000	520	1,040	1,317	2,000
85,000	90,000	1,760	2,000	530	1,060	1,344	2,000
90,000	95,000	1,790	2,000	540	1,080	1,368	2,000
95,000	100,000	1,815	2,000	545	1,090	1,392	2,000
100,000	110,000	1,835	2,000	550	1,100	1,437	2,000
110,000	120,000	1,855	2,000	555	1,110	1,479	2,000
120,000	130,000	1,875	2,000	560	1,120	1,521	2,000
130,000	140,000	1,890	2,000	565	1,130	1,557	2,000
140,000	150,000	1,900	2,000	570	1,140	1,593	2,000
150,000	160,000	1,935	2,000	580	1,160	1,629	2,000
160,000	170,000	1,965	2,000	590	1,180	1,662	2,000
170,000	180,000	1,990	2,000	600	1,200	1,695	2,000
180,000	190,000	2,010	2,010	605	1,210	1,725	2,000
190,000	200,000	2,030	2,030	610	1,220	1,755	2,000
200,000	210,000	2,055	2,055	620	1,240	1,782	2,000
210,000	230,000	2,100	2,100	635	1,270	1,836	2,000
230,000	250,000	2,155	2,155	650	1,300	1,890	2,000
250,000	275,000	2,215	2,215	670	1,340	1,950	2,000
275,000	300,000	2,275	2,275	690	1,380	2,000	2,000

Note 1: Terms used in Table H-20 are found in WAC 296-52-60130, Definitions.
 Note 2: Source of table data is BATF (6/90) 55.218.

NEW SECTION

WAC 296-52-69110 Table H-21—Quantity and distance table for separation between magazines.

Note: This table applies to the permanent storage of commercial explosives only. It does not apply to:

- Explosives handling
- Explosives transportation
- Temporary storage of explosives
- Bombs, projectiles, or other heavily encased explosives

Magazines containing detonators and electric detonators must be separated from:

(1) Other magazines with similar contents.

OR

(2) Magazines containing explosives.

Note: Definitions of barricade including artificial and natural barricade can be found in WAC 296-52-60130, Definitions.

Table H-21

QUANTITY AND DISTANCE TABLE FOR SEPARATION BETWEEN MAGAZINES CONTAINING EXPLOSIVES		Separation Distance in Feet Between Magazines	
Pounds Over	Pounds Not Over	Not Barricaded	Barricaded
2	5	12	6
5	10	16	8
10	20	20	10
20	30	22	11
30	40	24	12
40	50	28	14
50	75	30	15
75	100	32	16
100	125	36	18

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QUANTITY AND DISTANCE TABLE FOR SEPARATION BETWEEN MAGAZINES CON- TAINING EXPLOSIVES		Separation Distance in Feet Between Magazines	
Pounds Over	Pounds Not Over	Not Barri- caded	Barricaded
125	150	38	19
150	200	42	21
200	250	46	23
250	300	48	24
300	400	54	27
400	500	58	29
500	600	62	31
600	700	64	32
700	800	66	33
800	900	70	35
900	1,000	72	36
1,000	1,200	78	39
1,200	1,400	82	41
1,400	1,600	86	43
1,600	1,800	88	44
1,800	2,000	90	45
2,000	2,500	98	49
2,500	3,000	104	52
3,000	4,000	116	58
4,000	5,000	122	61
5,000	6,000	130	65
6,000	7,000	136	68
7,000	8,000	144	72
8,000	9,000	150	75
9,000	10,000	156	78
10,000	12,000	164	82
12,000	14,000	174	87
14,000	16,000	180	90
16,000	18,000	188	94
18,000	20,000	196	98
20,000	25,000	210	105
25,000	30,000	224	112
30,000	35,000	238	119
35,000	40,000	248	124
40,000	45,000	258	129
45,000	50,000	270	135
50,000	55,000	280	140
55,000	60,000	290	145
60,000	65,000	300	150
65,000	70,000	310	155
70,000	75,000	320	160
75,000	80,000	330	165

QUANTITY AND DISTANCE TABLE FOR SEPARATION BETWEEN MAGAZINES CON- TAINING EXPLOSIVES		Separation Distance in Feet Between Magazines	
Pounds Over	Pounds Not Over	Not Barri- caded	Barricaded
80,000	85,000	340	170
85,000	90,000	350	175
90,000	95,000	360	180
95,000	100,000	370	185
100,000	110,000	380	195
110,000	120,000	410	205
120,000	130,000	430	215
130,000	140,000	450	225
140,000	150,000	470	235
150,000	160,000	490	245
160,000	170,000	510	255
170,000	180,000	530	265
180,000	190,000	550	275
190,000	200,000	570	285
200,000	210,000	590	295
210,000	230,000	630	315
230,000	250,000	670	335
250,000	275,000	720	360
275,000	300,000	770	385

Note: With site-specific department approval, a stand of mature timber may qualify as a natural barricade. The timber must be dense enough so the area requiring protection cannot be seen from the magazine when the trees are bare of leaves.

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NEW SECTION

WAC 296-52-69115 Table H-22—Separation distances of ammonium nitrate and blasting agents from explosives or blasting agents.

Table H-22

TABLE OF SEPARATION DISTANCES OF AMMONIUM NITRATE AND BLASTING AGENTS FROM EXPLOSIVES OR BLASTING AGENTS¹

Donor weight		Minimum separation distance of receptor when barricaded ² (ft.)		Minimum thickness of artificial barricades ⁵ (in.)
Pounds over	Pounds not over	Ammonium nitrate ³	Blasting agent ⁴	
	100	3	11	12
100	300	4	14	12
300	600	5	18	12
600	1,000	6	22	12
1,000	1,600	7	25	12
1,600	2,000	8	29	12
2,000	3,000	9	32	15
3,000	4,000	10	36	15
4,000	6,000	11	40	15
6,000	8,000	12	43	20
8,000	10,000	13	47	20
10,000	12,000	14	50	20
12,000	16,000	15	54	25
16,000	20,000	16	58	25
20,000	25,000	18	65	25
25,000	30,000	19	68	30
30,000	35,000	20	72	30
35,000	40,000	21	76	30
40,000	45,000	22	79	35
45,000	50,000	23	83	35
50,000	55,000	24	86	35
55,000	60,000	25	90	35
60,000	70,000	26	94	40
70,000	80,000	28	101	40
80,000	90,000	30	108	40
90,000	100,000	32	115	40
100,000	120,000	34	122	50
120,000	140,000	37	133	50
140,000	160,000	40	144	50
160,000	180,000	44	158	50
180,000	200,000	48	173	50
200,000	220,000	52	187	60
220,000	250,000	56	202	60
250,000	275,000	60	216	60
275,000	300,000	64	230	60

Note 1: These distances apply to the separation of storage. Table H-20 must be used in determining separation distances from inhabited buildings, passenger railways, and public highways.

Note 2: When the ammonium nitrate and/or blasting agent is not barricaded, the distances shown in the table must be multiplied by six. These distances allow for the possibility of high velocity metal fragments from mixers, hoppers, truck bodies, sheet metal structures, metal containers, and the like which

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may enclose the "donor." When ammonium nitrate is stored in a bullet resistant magazine it is recommended explosives or where the storage is protected by a bullet resistant wall, distances, and barricade thickness in excess of those prescribed in Table H-20 are not required.

Note 3: The distances in the table apply to ammonium nitrate that passes the insensitivity test prescribed in the definition of ammonium nitrate fertilizer promulgated by the Fertilizer Institute, and ammonium nitrate failing to pass a test must be stored at separation distances determined by competent persons. (Definition and Test Procedures for Ammonium Nitrate Fertilizer, the Fertilizer Institute, formerly the National Plant Food Institute, November 1964.)

Note 4: These distances apply to nitro-carbo-nitrates and blasting agents, which pass the insensitivity test prescribed in the U.S. DOT regulations.

Note 5: Acceptable barricades include either natural or artificial barricades as defined in WAC 296-52-60130, Definitions.

Note 6: When the ammonium nitrate must be counted in determining the distances to be maintained from inhabited buildings, passenger railways, and public highways, it may be counted at one-half its actual weight because its blast effect is lower.

Note 7: Guide to use of table of recommended separation distances of ammonium nitrate and blasting agents from explosives or blasting agents.

(a) Sketch the location of all potential donors and acceptor materials together with the maximum amount of material to be allowed in the area. (Potential donors are high explosives, blasting agents, and combination of masses of detonating materials. Potential acceptors are high explosives, blasting agents, and ammonium nitrate.)

(b) Consider each donor mass in combination with each acceptor mass. If the masses are closer than table allowance, distances measured between nearest edges, the combination of masses becomes a new potential donor of weight equal to the total mass. When individual masses are considered as donors, distances to potential acceptors must be measured between edges. When combined masses within propagating distance of each other are considered as a donor, the appropriate distance to the edge of potential acceptors must be computed as a weighted distance from the combined masses:

(i) Calculation of weighted distance from combined masses:

Let M_2, M_3, \dots, M_n be donor masses to be combined.

M_1 is a potential acceptor mass.

D_{12} is distance from M_1 to M_2 (edge to edge).

D_{13} is distance from M_1 to M_3 (edge to edge), etc.

To find weighted distance $D_{1(2,3, \dots, n)}$ from combined masses to M_1 , add the products of the individual masses and distances and divide the total by the sum of the masses:

$$D_{1(2,3, \dots, n)} = \frac{M_2 \times D_{12} + M_3 \times D_{13} + \dots + M_n \times D_{1n}}{M_2 + M_3 + \dots + M_n}$$

Propagation is possible if either an individual donor mass is less than the tabulated distance from an acceptor or a combined mass is less than the weighted distance from an acceptor.

(c) When determining the distances separating highways, railroads, and inhabited buildings from potential explosions (as prescribed in Table H-20), the sum of all masses which may propagate (i.e., lie at distances less than prescribed in the table) from either individual or combined donor masses are included. However, the ammonium nitrate must be included, only 50 percent of its weight must be used because of its reduced blast effects. In applying Table H-21, distances from highways, railroads, and inhabited buildings, distances are measured from the nearest edge of potentially explodable material.

(d) When all or part of a potential acceptor comprises explosives Class A as defined in U.S. DOT regulations, storage in bullet resistant magazines is required. Safe distances to stores in bullet resistant magazines may be obtained from the intermagazine distances described in Table H-21.

(e) Barricades cannot have line of sight openings between potential donors and acceptors, which permit blast or missiles to move directly between masses.

(f) Good housekeeping practices must be maintained around any bin containing ammonium nitrate or blasting agent. This includes keeping weeds and other combustible materials cleared within twenty-five feet of the bin. Accumulation of spilled product on the ground must be prevented.

NEW SECTION

WAC 296-52-69120 Table H-23—Quantity and distance tables for manufacturing buildings. Explosives manufacturing plants that have buildings and magazines, where workers are regularly employed, must meet the quantity and separation distance requirements of Table H-23, intraexplosives plant quantity and distance table.

(1) **Explosives manufacturing buildings.** Explosives manufacturing buildings must be located away from manufacturing and nonmanufacturing buildings as required by Table H-23.

(2) **Magazines.** Magazines must be located away from manufacturing and nonmanufacturing buildings as required by Table H-23.

Table H-23

EXPLOSIVES		Distance Feet
Pounds Over	Pounds Not Over	Separate Building or Within Substantial Dividing Walls
....	10	
10	25	40
25	50	60
50	100	80
100	200	100
200	300	120
300	400	130
400	500	140
500	750	160
750	1,000	180
1,000	1,500	210
1,500	2,000	230
2,000	3,000	260
3,000	4,000	280
4,000	5,000	300
5,000	6,000	320
6,000	7,000	340
7,000	8,000	360
8,000	9,000	380

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EXPLOSIVES		Distance Feet
Pounds Over	Pounds Not Over	Separate Building or Within Substantial Dividing Walls
9,000	10,000	400
10,000	12,500	420
12,500	15,000	450
15,000	17,500	470
17,500	20,000	490
20,000	25,000	530
25,000	30,000	560
30,000	35,000	590
35,000	40,000	620
40,000	45,000	640
45,000	50,000	660
50,000	55,000	680
55,000	60,000	700
60,000	65,000	720
65,000	70,000	740
70,000	75,000	770
75,000	80,000	780
80,000	85,000	790
85,000	90,000	800
90,000	95,000	820
95,000	100,000	830
100,000	125,000	900
125,000	150,000	950
150,000	175,000	1,000
175,000	200,000	1,050
200,000	225,000	1,100
225,000	250,000	1,150
250,000	275,000	1,200
275,000	300,000	1,250

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NEW SECTION

WAC 296-52-69125 Table H-24—Low explosives. (1)

Use Table H-24 for: Magazines that are restricted to:

- Class B
- Class C (Division 1.3 or 1.4), low explosives
- Low explosives classified by BATF

(2) Detonators cannot be stored with low explosives.

Table H-24

TABLE OF DISTANCES FOR STORAGE OF LOW EXPLOSIVES

Pounds		From inhabited building distance (feet)	From public railroad and highway distance (feet)	From above ground magazine (feet)
Over	Not Over			
0	1,000	75	75	50
1,000	5,000	115	115	75
5,000	10,000	150	150	100
10,000	20,000	190	190	125
20,000	30,000	215	215	145
30,000	40,000	235	235	155
40,000	50,000	250	250	165
50,000	60,000	260	260	175
60,000	70,000	270	270	185
70,000	80,000	280	280	190
80,000	90,000	295	295	195
90,000	100,000	300	300	200
100,000	200,000	375	375	250
200,000	300,000	450	450	300

PART F

MAGAZINE CONSTRUCTION

NEW SECTION

WAC 296-52-700 Magazine construction. Construction of explosive storage magazines must comply with the requirements of this part and the Bureau of Alcohol, Tobacco, and Firearms (BATF) regulations.

Note: Construction requirements for blasting agent bulk storage bins are located in WAC 296-52-67140, Bulk storage bins.

NEW SECTION

WAC 296-52-70005 Class 1 magazines: Permanent storage facilities. A Class 1 storage facility must be:

- A permanent structure such as:

- A building
- An igloo
- An army-type structure
- A tunnel

OR

- A dugout

• Bullet resistant, fire resistant, weather resistant, theft resistant, and well ventilated.

NEW SECTION

WAC 296-52-70010 Building construction for Class 1 magazines. All building-type storage facilities must:

- Be constructed of masonry, wood, metal, or a combination of these materials
- Have no openings except for entrances and ventilation
- Have the ground around the facility slope away for drainage

(1) Wall construction.

(a) **Masonry wall construction.** Masonry wall construction must:

- Consist of brick, concrete, tile, cement block, or cinder block
- Be at least six inches thick

(b) **Hollow masonry construction.** Hollow masonry construction must:

- Have all hollow spaces filled with well tamped coarse dry sand

OR

- Have weak concrete (a mixture of one part cement to eight parts sand with enough water to dampen the mixture) while tamping in place

AND

- Have interior walls covered with a nonsparking material

(c) Fabricated metal wall construction.

• Metal wall construction must be securely fastened to a metal framework and consist of one of the following types of metal:

- Sectional sheets of steel (at least number 14 gauge)

OR

- Aluminum (at least number 14 gauge)

• Metal wall construction must:

- Be lined with brick, solid cement blocks, and hardwood at least four inches thick or material of equivalent strength

- Have a minimum of six-inch sand fill between interior and exterior walls

- Have interior walls constructed of or covered with a nonsparking material

(d) Wood frame wall construction.

• Exterior wood walls must be covered with iron or aluminum at least number 26 gauge

• Inner walls, made of nonsparking materials must be constructed with a space:

- A minimum of six inches between the outer and inner walls

AND

- Filled with coarse dry sand or weak concrete

(2) Floors. Floors must be:

(a) Constructed of a nonsparking material.

(b) Strong enough to hold the weight of the maximum quantity to be stored.

(3) Foundation.

• Foundations must be constructed of brick, concrete, cement block, stone, or wood posts

• If piers or posts are used instead of a continuous foundation, the space under the building must be enclosed with metal

(4) Roof.

(a) Roofs must be covered with no less than number 26 gauge iron or aluminum fastened to a 7/8-inch sheathing, except for buildings with fabricated metal roofs.

(b) If it is possible for a bullet to be fired directly through the roof at such an angle that it would strike a point below the

top of the inner walls, storage facilities must be protected by one of the following two methods:

• A sand tray must be:

- Located at the top of the inner wall covering the entire ceiling area, except the area necessary for ventilation.

- Lined with a layer of building paper.

- Filled with at least four inches of coarse dry sand.

• A fabricated metal roof must be constructed of 3/16-inch plate steel lined with four inches of hardwood or material of equivalent strength. For each additional 1/16-inch of plate steel, the hardwood or material of equivalent strength lining may be decreased one inch.

(5) Doors and hinges.

(a) All doors must be constructed of 1/4-inch plate steel and lined with two inches of hardwood or material of equivalent strength.

(b) Hinges and hasps must be installed so they cannot be removed when the doors are closed and locked by:

- Welding

- Riveting

OR

- Bolting nuts on the inside of the door

(6) Locks.

(a) Each door must be equipped with:

- Two mortise locks

- Two padlocks fastened in separate hasps and staples

- A combination of a mortise lock and a padlock

- A mortise lock that requires two keys to open

OR

- A three-point lock

(b) Padlocks must:

- Have a minimum of five tumblers

- Have a case hardened shackle at least 3/8 inches in diameter

- Be protected with a minimum of 1/4-inch steel hoods, constructed to prevent sawing or lever action on the locks, hasps, and staples

Note: These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be operated from the outside.

(7) Ventilation.

- A two-inch air space must be left around ceilings and the perimeter of floors, except in doorways

- Foundation ventilators must be at least four inches by six inches

- Vents in the foundation, roof, or gables must be screened and offset

(8) Exposed metal.

- Sparking metal construction cannot be exposed below the tops of walls in storage facilities

- All nails must be blind nailed, countersunk, or nonsparking.

NEW SECTION

WAC 296-52-70015 Igloos, army-type structures, tunnels, and dugouts. These storage facilities must:

- Be constructed of reinforced concrete, masonry, metal, or a combination of these materials

- Have an earth mound covering of at least twenty-four inches on the top, sides, and rear unless the magazine meets the requirements of WAC 296-52-70010 (4)(b), Building construction for roofs

- Have interior walls and floors covered with a nonsparking material

- Be constructed according to the requirements of WAC 296-52-70005, Class 1 magazines: Permanent storage facilities, through WAC 296-52-70060, Construction.

NEW SECTION

WAC 296-52-70020 Class 2 magazines: Portable field storage. A Class 2 storage facility must:

- Be a box, trailer, semi-trailer, or other mobile facility. When an unattended vehicular magazine is used, the wheels must be removed or it must be effectively immobilized by kingpin locking devices or other methods approved by the department

- Be bullet resistant, fire resistant, weather resistant, theft resistant, and well ventilated

- Be a minimum of one cubic yard

- Be supported to prevent direct contact with the ground

- Have the ground around the magazine slope away for drainage or provide for other adequate drainage.

NEW SECTION

WAC 296-52-70025 Construction for Class 2 magazines. (1) **Exterior, doors, and top openings.**

(a) The exterior and doors must be constructed of at least 1/4-inch steel and lined with a minimum of two-inch hardwood.

(b) Magazines with top openings must have lids with water resistant seals or lids that overlap the sides by a minimum of one inch when closed.

(2) **Hinges and hasps.** Hinges and hasps must be installed so they cannot be removed when the doors are closed and locked by:

- Welding

- Riveting

OR

- Bolting nuts on the inside of the door

(3) **Locks.**

(a) Each door must be equipped with:

- Two mortise locks

- Two padlocks fastened in separate hasps and staples

- A combination of mortise lock and a padlock

- A mortise lock that requires two keys to open

OR

- A three-point lock

(b) Padlocks must have:

- A minimum of five tumblers and a case hardened shackle with a minimum of 3/8-inch diameter

- A minimum of 1/4-inch steel hoods constructed to prevent sawing or lever action on the locks, hasps, and staples

Note: These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be operated from the outside.

(4) **Ventilation.**

- A two-inch air space must be left around ceilings and the perimeter of floors, except at doorways

- Foundation ventilators must be at least four inches by six inches

- Vents in the foundation, roof, or gables must be screened and offset

(5) **Exposed metal.**

- Sparking metal cannot be exposed below the top of walls in the storage facilities

- All nails must be blind nailed, countersunk, or nonsparking

Note: The following are nonmandatory construction alternatives for magazine exteriors:

– All steel and wood dimensions shown are actual thickness

– The manufacturer's represented thickness may be used to meet the concrete block and brick dimensions.

3/16

- 3/16-inch steel lined with an interior of 4-inch hardwood.

- 3/16-inch steel lined with:

An interior of 7 inches of softwood

OR

6 3/4 inches of plywood.

- 3/16-inch steel lined with:

An intermediate layer of 3-inch hardwood

AND

An interior lining of 3/4-inch plywood.

1/8

- 1/8-inch steel lined with an interior of 5-inch hardwood.

- 1/8-inch steel lined with an interior of 9-inch softwood.

- 1/8-inch steel lined with:

An intermediate layer of 4-inch hardwood

AND

An interior lining of 3/4-inch plywood.

- 1/8-inch steel lined with:

A first intermediate layer of 3/4-inch plywood.

A second intermediate layer of 3 5/8 inches well-tamped dry sand

OR

Sand/cement mixture.

An interior lining of 3/4-inch plywood.

- 5/8-inch steel lined with an interior of any type of nonsparking material.

- 1/2-inch steel lined with an interior of at least 3/8-inch plywood.

- 3/8-inch steel lined with an interior of 2-inch hardwood.

- 3/8-inch steel lined with an interior of: 3 inches softwood

OR

2 1/4 inches of plywood.

- 1/4-inch steel lined with:

An interior of 5 inches of softwood

OR

5 1/4 inches of plywood.

- Any type of structurally sound fire resistant material lined with:

An intermediate layer of 4-inch solid concrete block

OR

4-inch solid brick or concrete

AND

An interior lining of 1/2-inch plywood placed securely against the masonry lining.

- Standard 8-inch concrete block with voids filled with well tamped sand/cement mixture.

- Standard 8-inch solid brick.

- Any type of structurally sound fire resistant material lined with an intermediate 6-inch space filled with:

Well tamped dry sand

OR

Well tamped sand/cement mixture.

- Any type of fire resistant material lined with:

A first intermediate layer of 3/4-inch plywood,

A second intermediate layer of 3 5/8-inch well tamped dry sand

OR

Sand/cement mixture,

A third intermediate layer of 3/4-inch plywood,

A fourth intermediate layer of 2-inch hardwood

OR

14 gauge steel and an interior lining of 3/4-inch plywood,

8-inch thick solid concrete.

NEW SECTION

WAC 296-52-70030 Class 3 magazines: Indoor storage facilities.

- Detonators in quantities of one thousand or less

- Ammonium perchlorate rocket motors in 62.5 gram amounts or greater, but not to exceed fifty pounds in total weight of explosives.

OR

- Diversionary devices intended for law enforcement use only, but not to exceed fifty pounds in total weight of explosives.

NEW SECTION

WAC 296-52-70035 Storage facilities for detonators.

Storage facilities for detonators in quantities of one thousand or less:

- Must be fire resistant and theft resistant

- Must be locked in an uninhabited building

- May be less than one cubic yard

- Must be painted red and have an identification label in case of fire.

NEW SECTION

WAC 296-52-70040 Construction for Class 3 magazines.

(1) Sides, bottoms, and covers must be constructed with a minimum of number 12 gauge metal and lined with a nonsparking material.

(2) Hinges and hasps must be attached so they cannot be removed from the outside.

(3) One steel padlock, which does not need to be protected by a steel hood, having a minimum of five tumblers and a case hardened shackle of a minimum of 3/8-inch diameter is sufficient for locking purposes.

NEW SECTION

WAC 296-52-70045 Class 4 magazines: Blasting agent, low explosive, or electric detonator storage facilities. A Class 4 storage facility must:

- Be a building, an igloo, an army-type structure, a tunnel, a dugout, a box, a trailer, semi-trailer, or other mobile facility

- Be fire resistant, weather resistant, and theft resistant

- Have the ground around the facility slope away for drainage

- Have the wheels removed or effectively immobilized by kingpin locking devices or other methods approved by the department, when an unattended vehicular magazine is used.

Note: Test results show that electric detonators are not affected by sympathetic detonation. Therefore, a Class 4 storage facility meets the necessary requirements for storage of electric detonators.

NEW SECTION

WAC 296-52-70050 Construction for Class 4 magazines. (1) These magazines must be constructed of masonry, metal covered wood, fabricated metal, or a combination of these materials.

(2) **Foundations.** Foundations must be constructed of:

- Brick

- Concrete

- Cement block

- Stone

- Metal

OR

- Wood posts

(3) The space under the building must be enclosed with fire resistant material, if piers or posts replace continuous foundation.

(4) The walls and floors must be made or covered with a nonsparking material or lattice work.

(5) Doors must be metal or solid wood covered with metal.

(6) Hinges and hasps must be installed so they cannot be removed when the doors are closed and locked by:

- Welding

- Riveting

OR

- Bolting nuts on the inside of the door

(7) **Locks.**

(a) Each door must be equipped with:

- Two mortise locks

- Two padlocks fastened in separate hasps and staples

- A combination of a mortise lock and a padlock

- A mortise lock that requires two keys to open

OR

- A three-point lock

(b) Padlocks must:

- Have a minimum of five tumblers
- Have a case hardened shackle of a minimum of 3/8-inch diameter
- Be protected with a minimum of 1/4-inch steel hoods constructed to prevent sawing or lever action on the locks, hasps, and staples.

Note: These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be operated from the outside.

NEW SECTION

WAC 296-52-70055 Class 5 magazines: Blasting agent storage facilities. A Class 5 storage facility must:

- Be a building, an igloo, an army-type structure, a tunnel, a dugout, a box, or a trailer, semi-trailer, or other mobile facility
- Be weather resistant and theft resistant
- Have the ground around the facility slope away for drainage
- Have the wheels removed or be effectively immobilized by kingpin locking devices or other methods approved by the department, when the unattended vehicular magazine is used.

NEW SECTION

WAC 296-52-70060 Construction for Class 5 magazines. (1) Doors must be constructed of solid wood or metal.

(2) Hinges and hasps must be installed so they cannot be removed when the doors are closed and locked by:

- Welding
- Riveting

OR

- Bolting nuts on the inside of the door

(3) **Locks.**

(a) Each door must be equipped with:

- Two mortise locks
- Two padlocks fastened in separate hasps and staples
- A combination of a mortise lock and a padlock
- A mortise lock that requires two keys to open

OR

- A three-point lock

(b) Padlocks must have:

- A minimum of five tumblers
- A case hardened shackle of a minimum of 3/8-inch diameter
- Padlocks must be protected with a minimum of 1/4-inch steel hoods constructed to prevent sawing or lever action on the locks, hasps, and staples.

Note: Trailers, semi-trailers, and similar vehicular magazines. Each door may be locked with one 3/8-inch diameter steel padlock and does not need to be protected by a steel hood, if the door hinges and lock hasp are securely fastened to the magazine and to the doorframe. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be operated from the outside.

NEW SECTION

WAC 296-52-70065 Explosives day box. (1) A day box for explosives must:

- Be fire, weather, and theft resistant
- Be used in a manner that safely separates detonators from other explosives
- Be constructed of a minimum of number 12 gauge (.1046 inches) steel
- Be lined with at least either 1/2-inch plywood or 1/2-inch masonite-type hardboard
- Have doors that overlap the sides by a minimum of one inch

- Have appropriate ground slope for drainage

(2) Hinges and hasps must be attached by:

- Welding
- Riveting

OR

- Bolting nuts on the inside of the door

(3) One steel padlock, which does not need to be protected by a steel hood, having a minimum of five tumblers and a case hardened shackle of a minimum of 3/8-inch diameter is sufficient for locking purposes.

NEW SECTION

WAC 296-52-70070 Detonator day box. A detonator day box is a temporary storage facility for detonators in quantities of one thousand or less.

(1) **Construction materials.** Sides, bottoms, and covers must be:

- Constructed of number 12 gauge metal
- Lined with a nonsparking material

(2) Hinges and hasps must be attached by:

- Welding
- Riveting

OR

- Bolting nuts on the inside of the door

(3) A single five tumbler lock must be used to lock the detonator day box.

HEATING SYSTEMS

NEW SECTION

WAC 296-52-70080 Magazine heating system requirements. Magazine heating system requirements and the following apply:

(1) **Heat sources.** Magazines requiring heat must be heated by either:

- Hot water radiant heating

OR

• Air directed into the magazine building by hot water or low pressure steam (15 psig) coils located outside the magazine building

(2) **Heating systems.** Magazine heating systems must meet the following requirements:

(a) The radiant heating coils in the building must be installed where explosive materials or their containers cannot

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touch the coils and air is free to circulate between the coils and the explosive material containers.

(b) The heating ducts must be installed where the hot air released from a duct is not directed toward the explosive material or containers.

(c) The heating device used in connection with a magazine must have controls, to prevent the building temperature from exceeding 130°F.

(d) The electric fan or pump used in the heating system for a magazine must be:

- Mounted outside
- Separate from the wall of the magazine
- Grounded

(e) **Electric motor, device controls, and electric switch gear.**

(i) The electric fan motor and the controls for electrical heating devices used in heating water or steam must have overloads and disconnects which comply with the National Electrical Code, (NFPA Number 70-1992).

(ii) All electrical switch gear must be located a minimum distance of twenty-five feet from the magazine.

(f) **Water or steam heating source.**

(i) A heating source for water or steam must be separated from a magazine by a distance of at least:

- Twenty-five feet when the heating source is electrical
- Fifty feet when the heating source is fuel fired

(ii) The area between a heating unit and a magazine cannot contain combustible materials.

(g) The storage of explosive material containers in the magazine must allow for uniform air circulation, so temperature uniformity can be maintained throughout the explosive materials.

NEW SECTION

WAC 296-52-70085 Lighting. (1) Battery activated safety lights or lanterns may be used in explosive storage magazines.

(2) **National Fire Protection Association (NFPA) Standards.**

(a) Electric lighting used in an explosive storage magazine must meet National Electric Code (NEC) standards (NFPA 70-1992) for all magazine conditions.

(b) All electrical switches must:

- Be located outside the magazine
- Meet NEC standards.

PART G MISCELLANEOUS

NEW SECTION

WAC 296-52-710 Exemptions. These rules do not apply to in process storage and intraplant transportation during the manufacture of small arms ammunition, small arms primers, and smokeless propellants.

AMMUNITION

NEW SECTION

WAC 296-52-71015 Quantity limits. Quantity limitations are not imposed on the storage of small arms ammunition in warehouses, retail stores, and other general occupancy facilities, except those imposed by the limitations of the storage facility.

NEW SECTION

WAC 296-52-71020 Storage with Class A or B explosives. Small arms ammunition cannot be stored with Class A or Class B explosives. Unless the storage facility is adequate for Class A or Class B storage, small arms ammunition cannot be stored there.

NEW SECTION

WAC 296-52-71025 Separation from flammable materials. Small arms ammunition must be separated from flammable liquids, flammable solids (as classified in 49 CFR Part 172), and oxidizing materials by a:

- Fire resistant wall with a one-hour rating

OR

- Distance of twenty-five feet.

SMALL ARMS SMOKELESS PROPELLANTS

NEW SECTION

WAC 296-52-71035 Transportation. Quantities of small arms ammunition weighing more than fifty pounds must be transported according to federal Department of Transportation (U.S. DOT) regulations.

NEW SECTION

WAC 296-52-71040 Shipping container.

• Small arms smokeless propellants (Class B) must be packed, stored, and transported in U.S. DOT approved shipping containers.

• All smokeless propellants must be stored in shipping containers made for smokeless propellants (as required by 49 CFR 173.93).

NEW SECTION

WAC 296-52-71045 Storage. (1) **Private residence or car.**

• Twenty-five pounds or less of small arms smokeless propellants, no restrictions

• Twenty-five to fifty pounds of small arms smokeless propellants, they must be stored in a strong box or cabinet constructed of a minimum of 3/4-inch plywood or equivalent material, on all sides, top, and bottom

(2) **Commercial stocks.**

• Over twenty pounds but not more than one hundred pounds of small arms smokeless propellants must be stored in

portable wooden boxes with a minimum of one-inch thick walls

- Small arms smokeless propellants not exceeding one hundred fifty pounds, must be stored in a nonportable storage cabinet with a minimum of one-inch thick wood walls

(3) **Dealer's warehouse.**

- A dealer's warehouse cannot hold more than one hundred fifty pounds of small arms smokeless propellants

- Twenty to one hundred pounds of small arms smokeless propellants must be stored in a minimum of one-inch thick portable or fixed wooden boxes

(4) **Dealer's display.**

- The dealer's display cannot exceed more than seventy-five pounds of small arms smokeless propellants

- Small arms smokeless propellants must be stored in one-pound containers

(5) **Magazines.** Small arms smokeless propellants that exceed one hundred fifty pounds must be stored in approved licensed magazines. See Storage licensing, WAC 296-52-660, Storage of explosive materials, WAC 296-52-690, and Magazine construction, WAC 296-52-700.

SMALL ARMS AMMUNITION PRIMERS

NEW SECTION

WAC 296-52-71055 Shipping containers. Small arms ammunition primers must be packed, stored, and transported in U.S. DOT approved shipping containers.

NEW SECTION

WAC 296-52-71060 Separation from flammable materials. Primers must be separate from flammable liquids, flammable solids, and oxidizing materials by a:

- Fire resistant wall with a one hour rating

OR

- Distance of twenty-five feet.

NEW SECTION

WAC 296-52-71065 Storage. (1) **Private residence.** The maximum small arms ammunition primers permitted is ten thousand primers. No restrictions apply.

(2) **Private car.** The maximum small arms ammunition primers permitted is twenty-five thousand primers. No restrictions apply.

(3) **Dealer's display.** The maximum small arms ammunition primers permitted is ten thousand primers. No restrictions apply.

(4) **Dealer's warehouse.**

- The maximum small arms ammunition primers permitted is seven hundred fifty thousand primers

- No more than one hundred thousand small arms ammunition primers may be stored in one stack

- Stacks must be separated by at least fifteen feet

(5) **Magazines.** If there are more than seven hundred fifty thousand small arms ammunition primers, they must be stored in approved licensed magazines (see Storage licens-

ing, WAC 296-52-660, Storage of explosive material, WAC 296-52-690, and Magazine construction, WAC 296-52-700).

BLACK POWDER

NEW SECTION

WAC 296-52-71075 Shipping containers. Black powder, used in muzzleloading firearms must be packed, stored, and transported in U.S. DOT approved shipping containers.

NEW SECTION

WAC 296-52-71080 Storage. (1) **Private residence.** No more than five pounds of black powder is permitted. No restrictions apply.

(2) **Private car.** No more than five pounds of black powder is permitted. No restrictions apply.

(3) **Dealer's warehouse.** No more than twenty-five pounds of black powder is permitted. Black powder must be stored in an appropriate container or cabinet, which is securely locked.

(4) **Magazine.** Quantities of black powder, as used in muzzleloading firearms, in excess of twenty-five pounds must be stored in licensed magazines (see Storage licensing, WAC 296-52-660, Storage of explosive materials, WAC 296-52-690, and Magazine construction, WAC 296-52-700).

EXPLOSIVES AT PIERS, RAILWAY STATIONS, RAILWAY CARS, AND VESSELS NOT OTHERWISE SPECIFIED IN THIS CHAPTER

NEW SECTION

WAC 296-52-71090 Delivery to carriers. Explosives delivered to any carrier must comply with U.S. DOT regulations. Explosives cannot be delivered to any carrier unless the packaging is in compliance with U.S. DOT regulations.

NEW SECTION

WAC 296-52-71095 Hours of transfer. Explosives cannot be received between sunset and sunrise from any:

- Railway station

- Truck terminal

- Pier

- Wharf

- Harbor facility

OR

- Airport terminal.

NEW SECTION

WAC 296-52-71100 Storage in route. Explosives waiting for delivery or further transit at a railway facility, truck terminal, pier, wharf, harbor facility, or airport terminal must be:

- Stored in a safe place

- Isolated as much as practical

- In a manner that allows quick and easy removal.

NEW SECTION

WAC 296-52-71105 Railway cars. (1) Use of railway cars.

Explosives cannot be kept in a railway car unless:

- An emergency exists
- Permission has been granted by the local authority
- The railway car, its contents, and methods of loading are in compliance with U.S. DOT regulations (49 CFR Chapter 1)

(2) Warning signs for railway cars not in transit.

Any railway car containing explosives must have warning signs attached to every side of the car when it is:

- Stopped in transit

OR

- At its designation

AND

- No longer considered in interstate commerce

Warning signs must read "EXPLOSIVES—HANDLE CAREFULLY—KEEP FIRE AWAY."

The letters must be:

- Red
- At least one and one-half inches high
- On a white background.

NEW SECTION

WAC 296-52-720 Appendix A, sample explosives-blasting ordinance for local jurisdictions, nonmandatory.

Explosives-blasting ordinance for local jurisdictions

Be it ordained by the _____ (jurisdiction name).

Section 1: Permit required.

(1) A current and valid blasting permit issued by _____ (jurisdiction name) is required by companies or individuals who:

- Possess explosive materials (as defined by chapter 296-52 WAC, Safety standards for possessions and handling of explosives)
- Conduct an operation or activity requiring the use of explosive materials

OR

• Perform, order, or supervise the loading and firing of high explosive materials

(2) Anyone in _____ (jurisdiction name) who does not have a valid blasting permit cannot transport, sell, give, deliver, or transfer explosive materials.

(3) A blasting permit is required for every individual project requiring blasting explosives.

(4) A permit issued to any person, company, or corporation under this ordinance is nontransferable to any other person, company, or corporation.

(5) All blasting permits issued by _____ (jurisdiction name) must follow all federal, state, county, and

city laws and regulations that apply to these activities with explosive materials:

- Obtaining
- Owning
- Transporting
- Storing
- Handling
- Using.

Section 2: Application contents.

(1) The proper administrative authority (____ name) or their designee, has the power and authority to issue blasting permits and requires persons, companies, or corporations who are issued permits to file an application that includes:

(a) A completed application form provided by _____ (jurisdiction name) specifying the name and address of the person, company or corporation applying for the permit, and the name and address of the blast site or the person who will actually supervise the blasting.

(b) A current and valid explosives license issued by the state of Washington department of labor and industries to one or more individuals working on the specific blasting project.

(c) A transportation plan according to Section 8.

(d) A blasting plan according to Section 10(1).

(e) A traffic control plan according to Section 10(2).

(f) A preblast; notification, inspection, and monitoring plan according to Section 10(3).

(g) Proof of insurance must be provided according to Section 4.

(2) _____ (jurisdiction name) will issue a permit within fourteen days of receiving an application that includes acceptable documentation of the above items 1 a through g through 7. If the permit is denied, it must be done within fourteen days of administering authority receipt and must include a list of reasons for denial as well as instructions for reapplication.

Section 3: Fee.

A permit fee is required for each permit issued. It should be:

- Valid for twelve months
- Follow the local fee schedule
- Renewable

Section 4: Liability insurance required.

(1) If the _____ (jurisdiction name) design requires approval, then coverage of one million dollars or more is required or other reasonable amount depending on the circumstances as determined by _____ (name of the proper administrative authority).

(2) The certificate must also state that the insurance company must give _____ (jurisdiction name) a minimum of ten days notice of cancellation of the liability insurance coverage.

(3) The _____ (name of the proper administrative authority) has the power and authority to limit the level of blasting. After examining all pertinent circumstances surrounding the proposed blasting, they may refuse to issue a permit, or suspend, or revoke an existing permit.

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Section 5: Revocation.

The _____ (name of the proper administrative authority) has the power to revoke any permit if the permit holder does not follow the requirements of this chapter. The permit holder has twenty-four hours to remove all explosive materials after being notified that their permit has been revoked.

Section 6: Denial or revocation appeal.

Any person, company, or corporation whose blasting permit application is denied, suspended, or revoked by _____ (name of proper authority), may file a notice of appeal within ten days to _____ (name of the legislative body with jurisdiction over the administrator).

– The legislative body must schedule an appeals hearing within fourteen days.

Section 7: _____ (jurisdiction name) not to assume liability.

_____ (jurisdiction name) is not responsible for any damage caused by the person, company, or corporation blasting with _____ (jurisdiction name).

Section 8: Transportation of explosives (transportation plan).

(1) You must include a transportation plan that addresses the transportation of explosive materials within _____ (jurisdiction name) with your application for a blasting permit.

(2) The transportation plan must include the following information:

- (a) Route used for deliveries and returns
- (b) Hours of transportation
- (c) Maximum quantities of explosives being transported
- (d) Types of vehicles being used. Vehicles must be in compliance with federal and state transportation regulations for transportation of explosive material.

Section 9: Storage of explosives.

(1) No overnight storage of explosive material is permitted within the limits of _____ (jurisdiction area) without specific amendments to the permit allowing storage. Blast holes loaded with explosives are to be shot on the day they are loaded.

(2) The required method of handling explosives in _____ (jurisdiction area) is as follows:

- (a) Same day delivery
- (b) Stand by during loading
- (c) Return of all unused explosive materials.

Section 10: Use of explosives.

(1) **Blasting plan.** A blasting plan for each project must be submitted to _____ and approved by the _____ (name of the proper administrative authority) or their designee prior to issuing a blasting permit. The plan must include additional documentation for

the proposed blasting operation. For example, maps, site plans, and excavation drawings. The plan must include:

- (a) The location where the blast will occur
- (b) The approximate total amount of material to be blasted
- (c) The incremental volumes, per blast, of material to be blasted
- (d) The types and packaging of explosive materials to be used
- (e) The drill hole diameters, depths, patterns, subdrilling depths and drill hole orientation to be used
- (f) The initiation system, the incremental delay times, and the location of the primers in the explosive column
- (g) The stemming depths and stemming material for the various estimated depths of drill holes to be blasted
- (h) The approximate powder factors anticipated
- (i) The flyrock control procedures and equipment to be used
- (j) The maximum number of blasts that will be made in one day
- (k) The blast warning sound system and equipment to be used
- (l) The scheduled start date and finish date of blasting operations
- (m) Additional requirements as needed.

(2) **Traffic control plan.** A traffic control plan acceptable to _____ (jurisdiction name) detailing signing, flagging, temporary road closures, and detour routes for blasting operations must be filed before the blasting permit is issued.

(3) **Preblast notification plan.** A plan outlining preblast public notifications, structural inspections, and blast effect monitoring within a specified distance of the blasting is required before the blasting permit is issued.

(a) **Separation distance.** The distances from the blasting where the notification, preblast structural inspection, and blast monitoring is required must be determined by the scaled distance formulas described below. Blasting will not be permitted until the notification and inspection requirements are completed.

(b) Scaled distance formulas.

- (i) The distance from the blast within which:
 - Notification of all occupied structures is required: $D_a = 90 w$
 - Inspection of all occupied structures is required: $D_b = 75 w$
 - Monitoring of selected structures is required: $D_c = 60 w$

(ii) In the above formulas:

- D_a , D_b , and D_c are the actual distances in feet from the closest point in the blast.
- w is the square root of the maximum weight of the explosives in pounds detonated with a minimum 8 millisecond from another detonation event.

(c) **Notification letter.** The preblast notification must consist of a letter advising all residents within the distance (specified in WAC 296-52-720 section 10 (3)(b)) of the blasts. The letter must include the intent of the blasting program, its anticipated impact on local residents, the proposed

duration of blasting activities, and provide telephone numbers for public contact. Distribution of this notification must be made a minimum of seven days before the start of blasting. The source of the chart is 121.8507, Bureau of Mines, U.S. Department of Interior, 1980.

(d) **Preblast inspection.** A preblast inspection of resident's property must be offered to all residents within the distance (specified in WAC 296-52-720 section 10 (3)(b) above) of the blasting at no cost to the resident and will be preformed by a qualified third party who is not an employee of the contractor. A copy of the individual inspection reports and a log of all photos taken are to be provided to _____ (jurisdiction name). Where inspections are not allowed by the resident or are not possible for other reasons, a certified letter must be sent to the occupant/owner at the unsurveyed address advising them of their right to a preblast inspection and the possible consequences of denying an inspection. The preblast inspection program for residences within the specified distance must be complete two days prior to the start of blasting and the _____ (name of the proper administrative authority) should be notified.

(4) **Blast-plan compliance inspections.** Blast-plan compliance inspections may be required for every blast until the operator can demonstrate an ability to safely blast according to the blast plan and control the extraneous effects of blasting such as flyrock, noise/air blast, and ground vibration. If more than two blasting inspections are required, an additional fee of _____ (insert dollar amount) per blast inspection will be assessed.

(5) **Monitoring.** All blasts which require monitoring by section 10 (3)(b) are to be monitored using blast monitoring equipment designed for the purpose and carrying a certificate of calibration dated within the previous twelve months. The blast monitors must record peak particle velocity and frequency in three orthogonal directions and air over pressure. Monitored shots in which the pounds detonated per an 8-millisecond time increment is less than ten pounds, one blast monitor is required. When ten or more pounds is detonated per an 8-millisecond time interval, two or more blast monitors are required. All blast-monitoring records are to be signed and submitted to _____ (jurisdiction name) within twenty-four hours of each blast.

(6) **Maximum peak particle velocity.** The maximum peak particle velocity in any seismic trace at the dominant frequency allowed on any residential, business or public structure designed for human occupancy is to be determined by the chart in WAC 296-52-67065(1).

(7) **Air blast.** The maximum air blast over pressure permitted at the closest residential, business or public structure designed for human occupancy is not to exceed 133 dBL @ 2.0 Hz hi pass system per WAC 296-52-67065(3). The source of this regulation is 121.8485, Bureau of Mines, U.S. Department of Interior, 1980.

(8) **Utilities.** Whenever blasting is being conducted in close proximity to existing utilities, the utility owner must be notified a minimum of twenty-four hours in advance of blasting.

(9) **Blast report.** A signed blast report, on a form approved by the _____ (name of the

proper administrative authority) or their designee, needs to be filed with _____ (jurisdiction name) within twenty-four hours of the blast. The report must include the following blast information:

- (a) Date, time, and location of the blast
 - (b) Number of drill holes
 - (c) Maximum, minimum and average drill hole depth
 - (d) Drill hole diameter
 - (e) Subdrill depth
 - (f) Total pounds of each type of explosive used
 - (g) A drill hole section schematic showing the loading of a typical hole
 - (h) Amount and type of stemming material
 - (i) Schematic showing the drill hole pattern
 - (j) Initiated delayed sequence
 - (k) Maximum pounds of explosives detonated in any eight millisecond time interval
 - (l) Type and size of any flyrock protection devices used, if any
 - (m) Comment regarding the outcomes of the blast.
- (10) _____ (jurisdiction name) must be notified immediately of any unplanned or unusual events that resulted from the blast. The permittee must also report any incident, damage claim, or neighbor annoyance report brought to the permittee's attention within twenty-four hours.

Section 11:

This ordinance will be in effect to preserve the health, peace, and safety of the citizens of _____ (jurisdiction name).

NEW SECTION

WAC 296-52-725 Appendix B, sample format for a blast record, nonmandatory.

Note: The sample blast record format is nonmandatory, but the information shown in the sample is required per WAC 296-52-67010(8), Blast records.

BLASTING RECORD

SKETCH OF BLAST LAYOUT

IDENTIFY SHOT LOCATION BY STATION OR BY DIRECTION AND DISTANCE TO KNOWN STRUCTURE OR OBJECT.
SHOW NORTH ARROW. SHOW DELAY NUMBER BY HOLE AND WIRING/CORD/TUBING HOOKUP.

BLAST LOCATION &
BLAST NUMBER _____

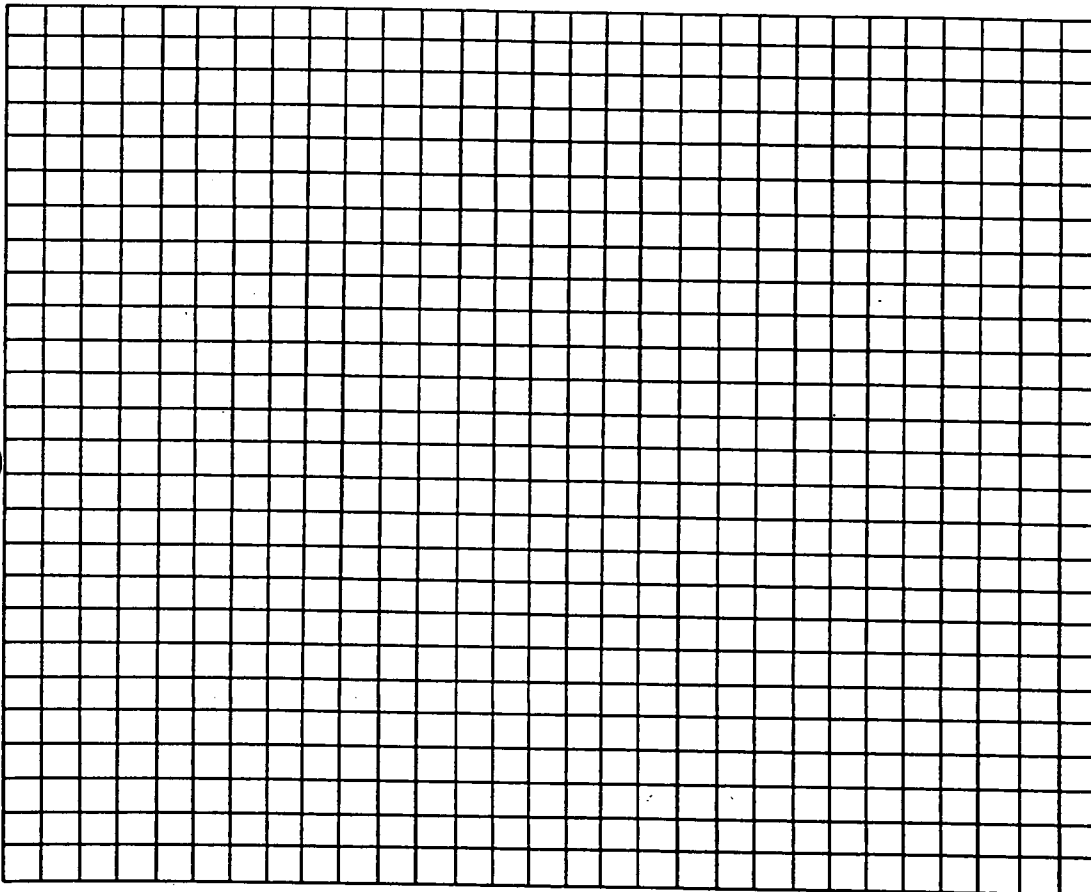
DATE: ___ / ___ / ___

TYPICAL HOLES



SHOW: Depth, Stemming, Decks, Water, Primer Locators, Subdrilling, etc.

PERMANENT



BLAST COMMENTS including fragmentation, muckpile configuration, and flyrock (use additional paper if needed)

SIGNATURE (Blaster in charge): _____ Date _____

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-52-401	Scope and application.
WAC 296-52-405	Incorporation of standards of national organizations and federal agencies.
WAC 296-52-409	Variance and procedure.
WAC 296-52-413	Equipment approval by non-state agency or organization.
WAC 296-52-417	Definitions.
WAC 296-52-419	Basic legal obligations.
WAC 296-52-421	Licenses—Information verification.
WAC 296-52-423	Revoking or suspending licenses.
WAC 296-52-425	Dealer's license.
WAC 296-52-429	License for manufacturing.
WAC 296-52-433	Purchaser's license.
WAC 296-52-437	User's (blaster's) license.
WAC 296-52-441	Storage magazine license requirements.
WAC 296-52-445	Licenses and inspections.
WAC 296-52-449	Storage magazine license fees.
WAC 296-52-453	Construction of magazines.
WAC 296-52-457	Storage of caps with other explosives prohibited.
WAC 296-52-461	Storage of explosives.
WAC 296-52-465	Storage of ammonium nitrate.
WAC 296-52-469	Storage of blasting agents and supplies.
WAC 296-52-477	Quantity and distance table for separation between magazines.
WAC 296-52-481	Recommended separation distances of ammonium nitrate and blasting agents from explosives or blasting agents.
WAC 296-52-485	Quantity and distance tables for manufacturing buildings.
WAC 296-52-487	Low explosives.
WAC 296-52-489	Transportation.

WAC 296-52-493

Use of explosives and blasting agents.

WAC 296-52-497

Blasting agents.

WAC 296-52-501

Water gel (slurry) explosives and blasting agents.

WAC 296-52-505

Coal mining code unaffected.

WAC 296-52-509

Small arms ammunition, primers, propellants and black powder.

WAC 296-52-510

Explosives at piers, railway stations, and cars or vessels not otherwise specified in this standard.

WAC 296-52-550

Appendix I—IME two-compartment transportation units (mandatory).

WAC 296-52-552

Appendix II—Radio frequency warning signs (mandatory).

WAC 296-52-555

Appendix III—ATF regulations.

WSR 02-03-002
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 01-285—Filed January 2, 2002, 4:47 p.m., effective January 3, 2002, 12:01 a.m.]

Date of Adoption: January 2, 2002.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order:
 Amending WAC 220-56-235.

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 regulation mirrors the regulation recently enacted by the federal government for these waters. This proposal is being considered by the Washington Fish and Wildlife Commission for adoption as a permanent rule during the commission's February 2002 meeting. This emergency rule is required to conserve the canary and yelloweye until the commission's permanent rules become effective.

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: January 3, 2002, 12:01 a.m.

January 2, 2002

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-56-23500L Possession limits—Bottomfish. Notwithstanding the provisions of WAC 220-56-235, effective 12:01 a.m. January 3, 2002 until further notice the daily limit for Rockfish in Catch Record Card Areas 1 through 4 is 10 rockfish of which no more than two may be canary rockfish or a combination of one canary rockfish and 1 yelloweye.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 02-03-014
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 02-03—Filed January 4, 2002, 9:36 a.m., effective January 5, 2002, 12:01 a.m.]

Date of Adoption: January 4, 2002.

Purpose: Amend personal use fishing.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 232-28-61900H; 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: Returns of early hatchery winter steelhead are up to ten times greater than last season's returns and are record returns for some of the facilities. All hatchery facilities have sufficient adults to meet egg take goals for this season except Cowlitz River lates which do not arrive until after February. 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 5, 2002, 12:01 a.m.

January 4, 2002

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 232-28-61900K Exceptions to statewide rules. Notwithstanding the provisions of WAC 232-28-619, the following rules apply:

(1) Effective January 5 through March 15, 2002 special daily limit of three hatchery steelhead may be retained in the following waters:

- (a) Coweeman River from mouth to Mulholland Creek
- (b) Elochoman River from mouth to West Fork
- (c) Grays River from mouth to South Fork

(d) West Fork Grays River from mouth to hatchery intake/footbridge (The hatchery fishway downstream to the posted signs and the West Fork from the hatchery intake/footbridge upstream remains closed to all angling.

(e) Lewis River from mouth to forks

(f) North Fork Lewis River from mouth to overhead powerlines below Merwin Dam

(g) East Fork Lewis River from mouth to 400 feet downstream of Horseshoe Falls

(h) Salmon Creek (near Vancouver) from mouth to 72nd Ave NE

(i) Washougal River from mouth to Salmon Falls Bridge

(j) West Fork Washougal River from water intake at Skamania Hatchery upstream.

(2) Effective January 5 through January 31, 2002 special daily limit of three hatchery steelhead may be retained in those waters of the Cowlitz River from mouth to posted markers below the barrier dam. All steelhead with missing right ventral fin must be released.

(3) Effective January 5 through March 31, 2002 special daily limit of three hatchery steelhead may be retained in those waters of the White Salmon from markers/buoys upstream to 400 feet downstream from Northwestern Dam.

(4) Effective January 5, 2002 until further notice special daily limit of three hatchery steelhead may be retained in those waters of the Kalama River from mouth to 1000 feet below fishway at upper salmon hatchery.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. January 5, 2002:

WAC 232-28-61900H Exceptions to statewide rules—Grays River. (01-272)

**WSR 02-03-015
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 02-04—Filed January 4, 2002, 9:39 a.m., effective January 5, 2002, 12:01 a.m.]

Date of Adoption: January 4, 2002.
Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900L; 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: Returns of early hatchery winter steelhead to southwest Washington Columbia River tributaries have been strong. This regulation provides additional

opportunity to harvest the early portion of the Cowlitz River run. 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 5, 2002, 12:01 a.m.
January 4, 2002
J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 232-28-61900L Exceptions to statewide rules—Blue and Mill creeks (Lewis County) Notwithstanding the provisions of WAC 232-28-619:

(1) Effective 12:01 a.m. January 5 through January 31, 2002, it is lawful to fish in those waters of Blue Creek from the mouth upstream to posted sign at rearing pond outlet - Special daily limit of three hatchery (adipose clipped) steelhead may be retained as part of the five trout daily limit. Trout minimum size 12 inches in length. Only wheel-chair bound anglers may fish from posted sign above rearing pond outlet to posted sign about 40 feet downstream including the rearing pond outlet. Wild cutthroat and wild steelhead plus steelhead with missing right ventral fins must be released.

(2) Effective 12:01 a.m. January 5 through January 31, 2002, it is lawful to fish in those waters of Mill Creek from mouth upstream to hatchery road crossing culvert - Special daily limit of three hatchery (adipose clipped) steelhead, minimum size 20 inches in length. Wild steelhead and steelhead missing right ventral fins must be released.

(3) Night closures and non-buoyant lure restrictions in effect.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. February 1, 2002:

WAC 232-28-61900L Exceptions to statewide rules—Blue and Mill creeks (Lewis County)

EMERGENCY

WSR 02-03-022
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 02-01—Filed January 4, 2002, 4:49 p.m.]

Date of Adoption: January 4, 2002.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900U and 232-28-61900I; 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: The Columbia and Snake River basins are receiving very large returns of hatchery steelhead. Only a relatively small number of returning hatchery steelhead are needed for hatchery production each year. Therefore, the excess hatchery steelhead are available for harvest. The continuation of the three fish per day bag limit for southeast Washington ensures that fishers have consistent daily limits in boundary waters of the Snake and Grande rivers, as well as in nearby waters in southeast Washington. Permanent adoption of this rule will be considered by the Department of Fish and Wildlife in the future.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 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 4, 2002

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 232-28-61900I Exceptions to statewide rules-Walla Walla River, Snake River, Mill Creek, Grande Ronde River, Touchet River and Tucannon River. Notwithstanding the provisions of WAC 232-28-619, the following rules apply:

(1) Effective immediately through 11:59 p.m. March 31, 2002, Special daily limit of three hatchery steelhead in the following waters:

(a) Walla Walla River from mouth to Touchet River.

(b) Snake River.

(2) Effective immediately through 11:59 p.m. April 15, 2002, Special daily limit of three hatchery steelhead in the following waters:

(a) Walla Walla River from Touchet River to Oregon state boundary.

(b) Mill Creek from mouth to Roosevelt St. Bridge.

(c) Grande Ronde River from County Road Bridge to Oregon State line.

(d) Touchet River from mouth to the confluence of North and South Forks.

(e) Tucannon River from mouth to Cummins Bridge.

(3) Closed areas in WAC 232-28-619 remain in effect.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900U	Exceptions to statewide rules-Snake River and Walla Walla River (01-194)
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The following section of the Washington Administrative Code is repealed effective 12:01 a.m. April 16, 2002:

WAC 232-28-61900I	Exceptions to statewide rules-Snake River and Walla Walla River
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WSR 02-03-023
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 02-02—Filed January 4, 2002, 4:50 p.m., effective January 10, 2002]

Date of Adoption: January 4, 2002.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: 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: The Washington Department of Fish and Wildlife and the Quinault Indian Nation have agreed to a forecast of the wild steelhead run size in the Queets River system for the 2001-02 season of 3,100. This is the lowest run size forecast in history for this system. Because of that fact, the Department of Fish and Wildlife and the Quinault Indian Nation agree that only incidental harvest of wild steelhead should be allowed this year. The Quinault

Indian Nation will operate their commercial gillnet fishery through January only to target the earlier timed hatchery steelhead. The sport fishery will selectively harvest hatchery steelhead only and release all wild fish. Ninety plus percent of the hatchery steelhead should have cleared the system by March 15. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: January 10, 2002.

January 4, 2002

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 232-28-61900J Exceptions to statewide rules—Clearwater River (Jefferson County) and Salmon River (Jefferson County) Notwithstanding the provisions of WAC 232-28-619, effective January 10, 2002 the following regulations apply:

- Item 1: Clearwater River From mouth to Snahapish River: Wild steelhead release January 10, 2002 through March 15, 2002. Effective March 16, 2002 until further notice closed to all fishing.
- Item 2: Salmon River Waters outside the Quinault Indian Reservation and Olympic National Park: Wild steelhead release January 10, 2002 through February 28, 2002.

Additional Rules: Steelhead with a dorsal fin height of less than 2 1/8 inches may also be retained.

WSR 02-03-024
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 02-05—Filed January 4, 2002, 4:51 p.m.]

Date of Adoption: January 4, 2002.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04600A; and amending WAC 220-52-046.

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 regulation corrects the Cultus Bay, Useless Bay and Glendale commercial zones to reflect current state/tribal management plans. 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 4, 2002

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-52-04600B Crab fishery—Seasons and areas. Notwithstanding the provisions of WAC 220-52-046, it will be lawful to fish for Dungeness Crab for commercial purposes except as provided herein:

(1) Effective immediately until further notice, commercial crab harvest is allowed in those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A within a line that extends due north from the green number 1 buoy at Scatchet Head to Scatchet Head, thence from the green number 1 buoy at Scatchet Head to the green number 1 buoy at Possession Point, thence due north from the green number 1 buoy at Possession Point to Possession Point.

(2) Effective immediately through March 31, 2002, commercial crab harvest is allowed in those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A east and north of a line that extends from Possession Point to the green number 1 buoy at Possession Point thence following the 200 foot contour northward to a point due east from the Glendale Dock, thence extending due west to the Whidbey Island shore.

(3) Effective immediately through March 14, 2002, commercial crab harvest is allowed in those waters of 26A north and east of a line from the south end of the Double Bluff State Park seawall (47° 58.782"N, 122° 30.84"W) projected 110° true to the boulder on shore (47° 57.690"N, 122° 26.742"W).

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-04600A Crab fishery—Seasons and areas. (01-284)

**WSR 02-03-025
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 02-06—Filed January 4, 2002, 4:52 p.m., effective January 7, 2002]

Date of Adoption: January 4, 2002.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07300Q; 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 red and green 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. The closures at Eagle Harbor and Sinclair Inlet protect public health and promote an orderly fishery. 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 7, 2002.

January 4, 2002

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-52-07300R Sea urchins Notwithstanding the provisions of WAC 220-52-073, effective January 7, 2002 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 1 and 2 are open only on January 7 and 8, 2002. Sea Urchin Districts 3 and 4 are open only on January 8 and 9, 2002. Marine Fish/Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, 26B, 26C, 26D, and 28A are open only on January 7, 8 and 9, 2002. The minimum size for green sea urchins is 2.25 inches (size in largest test diameter exclusive of the spines).

(2) Red sea urchins: Sea Urchin Districts 1 and 2 are open only on January 7 and 8, 2002. Sea Urchin District 3 is open only on January 7, 2002. The maximum daily landing for a vessel in Sea Urchin District 3 on January 7, 2002 is 1,100 pounds of red sea urchins. It is unlawful to harvest red sea urchins larger or smaller than the following size (size in largest test 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) The following areas are closed to the harvest of sea urchins at all times:

(a) Those waters of Eagle Harbor west of a line projected from Wing Point to Eagle Harbor Creosote Light Number 1, then due west to the shore on Bainbridge Island.

(b) The waters of Sinclair Inlet west of a line projected southerly from the easternmost point of Point Turner to landfall directly below the Veteran's Home in Annapolis.

REPEALER

The following section of the Washington Administrative Code is repealed effective January 7, 2002:

WAC 220-52-07300Q Sea urchins. (01-292)

**WSR 02-03-050
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 02-07—Filed January 9, 2002, 4:46 p.m.]

Date of Adoption: January 9, 2002.

EMERGENCY

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04600B; and amending WAC 220-52-046.

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 regulation: (1) Carries over the Cultus Bay, Useless Bay and Glendale commercial zone fixes to reflect current state/tribal management plans; and (2) closes the "Everett Flats" area due to crab softshell timing. 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 9, 2002
Sara G. LaBorde
for Jeff Koenings
Director

NEW SECTION

WAC 220-52-04600C Crab fishery—Seasons and areas. Notwithstanding the provisions of WAC 220-52-046, it will be lawful to fish for Dungeness Crab for commercial purposes except as provided herein:

(1) Effective immediately until further notice, commercial crab harvest is allowed in those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A within a line that extends due north from the green number 1 buoy at Scatchet Head to Scatchet Head, thence from the green number 1 buoy at Scatchet Head to the green number 1 buoy at Possession Point, thence due north from the green number 1 buoy at Possession Point to Possession Point.

(2) Effective immediately through March 31, 2002, commercial crab harvest is allowed in those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A east and north of a line that extends from Possession Point to the green number 1 buoy at Possession Point thence following the 200 foot contour northward to a point due east from

the Glendale Dock, thence extending due west to the Whidbey Island shore.

(3) Effective immediately through March 14, 2002, commercial crab harvest is allowed in those waters of 26A north and east of a line from the south end of the Double Bluff State Park seawall (47° 58.782"N, 122° 30.84'W) projected 110° true to the boulder on shore (47° 57.690'N, 122° 26.742'W).

(4) Effective 12:01 a.m. January 16, 2002 until further notice, commercial crab harvest is closed in those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A east of a line from the Spiral Staircase at Howarth Park thence due north to the southern most end of Gedney Island and that portion of 24B east of a line from the northern most end of Gedney Island to the southern most portion of Camano Head and south of a line drawn from the southern most portion of Camano Head to the western most portion of Hermosa Point.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-04600B Crab fishery—Seasons and areas. (02-05)

WSR 02-03-051

EMERGENCY RULES

DEPARTMENT OF FISH AND WILDLIFE

[Order 02-08—Filed January 9, 2002, 4:48 p.m., effective January 16, 2002, 12:01 a.m.]

Date of Adoption: January 9, 2002.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-330.

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: Closure in the "Everett flats" portion of Marine Area 8-2 is to protect soft-shelled crab. 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 16, 2002, 12:01 a.m.

January 9, 2002
Sara G. LaBorde
for Jeff Koenings
Director

NEW SECTION

WAC 220-56-33000D Crab—Areas and seasons. Notwithstanding the provisions of WAC 220-56-330, effective 12:01 a.m. January 16, 2002 until further notice, it is unlawful to fish for crab for personal use in that portion of Marine Area 8-2 east of a line from the Spiral Staircase at Howarth Park due north to the southern most end of Gedney Island and east of a line from the northern most end of Gedney Island to the southern most portion of Camano Head and south of a line drawn from the southern most portion of Camano Head to the western most portion of Hermosa Point.

**WSR 02-03-052
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 02-09—Filed January 9, 2002, 4:50 p.m., effective January 19, 2002, 12:01 a.m.]

Date of Adoption: January 9, 2002.

Purpose: Amend hunting rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-42500C; and amending WAC 232-28-425.

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 Washington Department of Fish and Wildlife recently received \$73,000 in federal funds to assist in controlling goose damage in southwest Washington. This amount is above a proposed reduction of \$65,000 in state funds for this program, and will allow added flexibility in addressing goose damage problems in southwest Washington by funding additional check station days. This emergency action adds another hunt day each week to the late goose season in Goose Management Area 2A, revising the hunting days from Sat./Sun./Wed. to Sat./Sun./Tue./Thu. 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, 2002, 12:01 a.m.

January 9, 2002
Sara G. LaBorde
for Jeff Koenings
Director

NEW SECTION

WAC 232-28-42500C 2001 Waterfowl season adjustments. Notwithstanding the provisions of WAC 232-28-425, effective January 19, 2002 through March 10, 2002:

(1) Goose Management Area 2A (except Ridgefield NWR) is open only 7:00 a.m. to 4:00 p.m. Saturdays, Sundays, Tuesdays and Thursdays.

REPEALER

The following section of the Washington Administrative Code is repealed effective 4:01 p.m. March 10, 2002:

WAC 232-28-42500C 2001 Waterfowl season adjustments.

**WSR 02-03-053
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 02-10—Filed January 9, 2002, 4:53 p.m., effective January 29, 2002, 12:01 p.m.]

Date of Adoption: January 9, 2002.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000L; and amending WAC 220-56-360.

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: Survey results show that adequate clams are available for harvest in Razor Clam Areas 1,

EMERGENCY

2 and those portions of Razor Clam Area 3 opened for harvest. Washington Department of Health has certified clams from these beaches to be safe for human consumption.

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 29, 2002, 12:01 p.m.

January 9, 2002

Sara G. LaBorde

for Jeff Koenings

Director

NEW SECTION

WAC 220-56-36000L Razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-56-360, it is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 2, or 3, except as provided for in this section:

(1) Effective 12:01 p.m. January 29 through 11:59 p.m. February 1, 2002, razor clam digging is allowed in Razor Clam Area 1 and Razor Clam Area 2. Digging is allowed from 12:01 p.m. to 11:59 p.m. only.

(2) Effective 12:01 p.m. January 29 through 11:59 p.m. February 1, 2002, razor clam digging is allowed in that portion of Razor Clam Area 3 that is between the Grays Harbor North Jetty and the Copalis River (Grays Harbor County) and that portion of Razor Clam Area 3 that is between Olympic National Park South Beach Campground access road (Kalaloch area, Jefferson County) and Browns Point (Kalaloch area, Jefferson County). Digging is allowed from 12:01 p.m. to 11:59 p.m. only.

(3) Effective 12:01 p.m. February 27 through 11:59 p.m. March 2, 2002, razor clam digging is allowed in Razor Clam Area 1 and that portion of Razor Clam Area 3 that is between the Grays Harbor North Jetty and the southern boundary of the Quinault Indian Nation. Digging is allowed from 12:01 p.m. to 11:59 p.m. only.

(4) It is unlawful to dig for razor clams at any time in Long Beach, Twin Harbors Beach or Copalis Beach Clam sanctuaries defined in WAC 220-56-372.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. March 3, 2002:

WAC 220-56-36000L Razor clams—Areas and seasons.

WSR 02-03-060

EMERGENCY RULES

WASHINGTON STATE PATROL

[Filed January 10, 2002, 1:46 p.m.]

Date of Adoption: January 10, 2002.

Purpose: To adopt recognized standards for emergency respite centers to protect life against the cause and spread of fire and fire hazards pursuant to RCW 74.15.050.

Citation of Existing Rules Affected by this Order: Amending chapter 212-12 WAC, Emergency respite center—Standard for fire protection group "LC" occupancy.

Statutory Authority for Adoption: RCW 74.15.050.

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 current rules do not reference the current standards now in effect with emergency respite centers.

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 23, 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 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 23, 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 10, 2002

Ronal W. Serpas

Chief

**EMERGENCY RESPITE CENTER—
STANDARD FOR FIRE PROTECTION
GROUP "LC" OCCUPANCY**

NEW SECTION

WAC 212-12-200 Purpose. The purpose of this regulation is to adopt recognized standards for emergency respite centers to protect life against the cause and spread of fire and fire hazards pursuant to RCW 74.15.050. Emergency respite centers are licensed by the department of social and health services and maintained and designated and operated according to the group occupancy classification of LC.

NEW SECTION

WAC 212-12-210 Definitions. The following definitions shall apply to this regulation:

(1) "Emergency respite center" is an agency that may be commonly known as a crisis nursery, that provides emergency and crisis care for up to seventy-two hours to children who have been admitted by their parents or guardians to prevent abuse or neglect. Emergency respite centers may operate for up to twenty-four hours a day, and for up to seven days a week. Emergency respite centers may provide care for children ages birth through seventeen, and for persons eighteen through twenty with developmental disabilities who are admitted with a sibling or siblings through age seventeen. Emergency respite centers may not substitute for crisis residential centers or HOPE centers, or any other services defined under this section, and may not substitute for services which are required under chapter 13.32A or 13.34 RCW.

(2) "Licensing agency" means the Washington state department of social and health services.

(3) "Building official" means the person or agency appointed by the governing body of each city, town or county for the administration and enforcement of the Uniform Building Code, adopted by reference by the State Building Code Act.

(4) "Fire official" means the person or agency appointed by the governing body of each city, town or county for the administration and enforcement of the Uniform Fire Code, adopted by reference by the State Building Code Act.

(5) "Fire chief" means the chief of the fire department providing fire protection services to the emergency respite centers.

(6) "State Building Code Act" means chapter 19.27 RCW, effective January 1, 1975, which establishes statewide building and fire prevention codes and mandates enforcement by each city, town and county.

(7) "Evacuation capability"

- Level II means semiambulatory persons that are physically and mentally capable of traversing a normal path to safety with the use of mobility aids, but unable to ascend or descend stairs without the physical assistance of another person.

- Level III means persons physically or mentally unable to walk or traverse a normal path to safety without the physical assistance of another person.

NEW SECTION

WAC 212-12-220 Applicability. This regulation applies to all LC facilities licensed or subject to licensure as emergency respite centers by the department of social and health services.

NEW SECTION

WAC 212-12-230 Compliance. All LC facilities designated and licensed as emergency respite centers shall comply with the provisions of this regulation.

NEW SECTION

WAC 212-12-240 Inspection. The licensing agency, upon receipt of an application for a license or at least thirty days before the expiration date of an existing license, shall submit to the director of fire protection in writing, a request for an inspection. The director of fire protection or authorized representative shall make an inspection of the facility, and if it is found that the facility does not comply with the standards contained in this regulation, a written report shall be made to the facility listing the violations found, corrective actions necessary and time allowed for correction. As soon as practicable after the expiration date of the time allowed to effect the corrective measures, a reinspection shall be made to determine compliance.

NEW SECTION

WAC 212-12-250 Approval. Upon the completion of the inspection, if the facility is in reasonable compliance with the applicable standards, a notice of approval for licensing shall be forwarded to the licensing agency.

NEW SECTION

WAC 212-12-260 Right of appeal. Any person may appeal any decision made by the fire protection bureau under this chapter through the following procedure:

(1) The first level of appeal is to the assistant state fire marshal. The appeal must be submitted in writing to the assistant state fire marshal within thirty days of receipt of the decision in question. The assistant state fire marshal shall reply to the appellant within ten days of receipt of such appeal.

(2) The second level of appeal is to the director of fire protection. If the appellant wishes to appeal the decision of the assistant state fire marshal, he/she shall, within ten days of the receipt of that decision, submit a written appeal to the director of fire protection. The director of fire protection shall reply to the appellant within ten days of receipt of such appeal.

(3) Should this process not satisfy the appellant, he or she may further appeal under chapter 34.05 RCW.

NEW SECTION

WAC 212-12-270 Local codes. Approvals are issued or denied on the basis of the applicant's compliance with the

director of fire protection's minimum fire and life safety standards. The enforcement of local fire and building codes is the responsibility of the respective fire and building officials.

NEW SECTION

WAC 212-12-280 Standards. The following standards shall be applicable to all emergency respite centers licensed as a Group LC Occupancy after the effective date of this regulation.

NEW SECTION

WAC 212-12-290 Construction requirements. (1) Emergency respite centers located within a Group LC Occupancy shall comply with the construction requirements for Group LC Occupancies as stated in current Washington state amendment to the 1997 Uniform Building Code.

(2) All rooms used for sleeping and all corridors shall be provided with smoke detectors. Detectors shall be installed in accordance with the approved manufacturer's instructions.

(3) An emergency power system capable of providing pathway lighting for a period of one and one-half hours of time.

NEW SECTION

WAC 212-12-300 Modernization or renovation. No construction in either modernization or renovation projects shall diminish the fire safety features of the facility below the level of new construction, as required elsewhere in this regulation. Alterations or installations of new building services equipment shall be accomplished as near as possible in conformance with the requirements for new construction and shall be approved by the building official, fire official and the director of fire protection.

NEW SECTION

WAC 212-12-310 Additions. Any addition shall be separated from any existing nonconforming structure as required in the current edition of the Washington State Building Code.

NEW SECTION

WAC 212-12-320 Design, operation. All emergency respite centers shall be so designed, constructed, maintained and operated as to minimize the possibility of a fire emergency endangering the residents or patients. The protection of residents or patients from fire shall be provided by appropriate arrangement of facilities, adequate staffing and careful development of operating and maintenance procedures composed of the following:

- (1) Proper design, construction and separation;
- (2) Provision for detection, alarm and evacuation; and
- (3) Fire prevention and the planning, training and drilling in programs for the notification of fire and the safe evacuation of residents or patients from the building or affected fire area.

NEW SECTION

WAC 212-12-330 Staffing requirements. All emergency respite centers shall provide staffing as established by the department of social and health services (DSHS).

NEW SECTION

WAC 212-12-340 Fire extinguishers. At least one minimum 2A-10BC rated fire extinguisher shall be provided on each floor level. Additional fire extinguishers may also be required due to area, travel distance or special hazards.

NEW SECTION

WAC 212-12-350 Lighting. (1) Illumination of the means of egress shall be continuous during the time that conditions of occupancy require that the means of egress be available for use.

(2) Automatic emergency lighting shall be provided and so arranged as to provide the required illumination automatically in the event of any interruption of normal lighting, such as the failure of public utility or other outside electrical power supply, opening of a circuit breaker or fuse, or any manual act(s) including accidental opening of a switch controlling normal lighting facilities.

(3) Electric battery-operated emergency lights shall use only reliable types of storage batteries, provided with suitable facilities for maintenance in properly charged condition. Electric storage batteries used in such lights or units shall be approved for their intended use and shall comply with the National Electrical Code, NFPA 70.

NEW SECTION

WAC 212-12-360 Protection from hazards. Any area used for general storage, and boiler or furnace rooms shall be separated from other parts of the building by construction having a fire-resistance rating conforming to the general construction requirements of the building type.

Central heating plants and other fuel-burning appliances shall be properly maintained and cleaned at frequent intervals. The surrounding area shall be kept free of rubbish and combustible storage.

NEW SECTION

WAC 212-12-370 Sprinkler systems. An automatic sprinkler system shall be installed throughout every Group LC Occupancy three or more stories in height or licensed for more than sixteen clients. Group LC Occupancies with sixteen or fewer clients, licensed to provide care for more than two clients who have an evacuation capability of II or III, shall be provided with an automatic sprinkler system throughout the facility.

EXCEPTION: An automatic sprinkler system need not be installed in any Group LC Occupancy licensed for six or fewer clients regardless of the level of evacuation capability.

Where a sprinkler system is required, a system complying with Uniform Building Code (UBC) Standard 9-1 shall be installed.

- EXCEPTIONS:**
1. An automatic sprinkler system complying with UBC Standard 9-3 may be installed in buildings of four stories or less.
 2. Where a Group LC Occupancy is being established by change of occupancy in an existing building not protected by a sprinkler system as is required above for buildings of new construction, an automatic sprinkler system complying with National Fire Protection Association (NFPA) Standard 13d may be installed provided the care facility is licensed for not more than sixteen clients.

Residential or quick-response heads shall be used in all sprinkler systems.

NEW SECTION

WAC 212-12-380 Fire alarm. Every emergency respite center licensed for sixteen or more residents shall have an approved automatic and manual fire alarm system. Operation of any fire alarm activating device shall automatically, without delay, activate off-site monitoring and accomplish general alarm indication and sound an audible alarm throughout the building or affected portion thereof.

NEW SECTION

WAC 212-12-390 Smoke detection. Smoke detectors that received their primary power from the building wiring shall be installed in all sleeping rooms, corridors and in areas separating use areas from sleeping areas. Activation of a smoke detector shall activate the building's fire alarm system and off-site monitoring.

NEW SECTION

WAC 212-12-400 Fire and evacuation plan. The administration of every emergency respite center shall have in effect and available to all personnel written copies of a plan for the protection of all persons in the event of fire and for their evacuation to areas of refuge and from the building when necessary. A copy of the evacuation plan shall be posted by each exit. All employees shall be instructed and kept informed respecting their duties under the plan.

NEW SECTION

WAC 212-12-410 Equipment maintenance. Every required automatic sprinkler system, fire detection and alarm system, exit lighting, fire door and other item of equipment required by this regulation and/or the applicable building and/or fire code shall be continuously maintained in proper operating condition. Equipment shall be tested or operated in accordance with manufacturer's recommendation and/or at sufficient intervals to assure reliability. Records of all tests and inspections shall be maintained for review. Tests and inspections shall be under the supervision of a responsible person.

NEW SECTION

WAC 212-12-420 Severability. If any provision of this regulation or its application to any person is held invalid, the remainder of the regulation or the application of the provision to other persons or circumstances is not affected.

WSR 02-03-066

EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 02-11—Filed January 10, 2002, 4:55 p.m.]

Date of Adoption: January 10, 2002.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order:
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: Spring chinook have been mass marked in the Cowlitz, Kalama, Lewis, and Willamette rivers and about half of the upriver spring chinook run is marked. Selective fishing will allow for harvest of surplus hatchery fish while minimizing impacts to wild/listed spring chinook. Complies with ESA requirements. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 10, 2002

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 232-28-61900M Exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 232-28-619, effective immediately until further notice,

all chinook salmon with an adipose fin intact must be released in those waters of the Columbia River downstream from the I-5 Bridge.

WSR 02-03-067
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 02-12—Filed January 10, 2002, 4:57 p.m., effective January 14, 2002]

Date of Adoption: January 10, 2002.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07300R; 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 red and green 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. The closures at Eagle Harbor and Sinclair Inlet protect public health and promote an orderly fishery. 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 14, 2002.

January 10, 2002

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-52-07300S Sea urchins. Notwithstanding the provisions of WAC 220-52-073, effective January 14, 2002 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 1, 2, 3 and 4 and Marine Fish/Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, 26A, 26B, 26C, 26D, and 28A are open only on January 14, 15 and 16, 2002. The minimum size for green sea urchins is 2.25 inches (size in largest test diameter exclusive of the spines).

(2) Red sea urchins: Sea Urchin Districts 1 and 2 are open only on January 14 and 15, 2002. It is unlawful to harvest red sea urchins larger than 5.5 inches or smaller than 4.0 inches (size in largest test 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) The following areas are closed to the harvest of sea urchins at all times:

(a) Those waters of Eagle Harbor west of a line projected from Wing Point to Eagle Harbor Creosote Light Number 1, then due west to the shore on Bainbridge Island.

(b) The waters of Sinclair Inlet west of a line projected southerly from the easternmost point of Point Turner to landfall directly below the Veteran's Home in Annapolis.

REPEALER

The following section of the Washington Administrative Code is repealed effective January 14, 2002:

WAC 220-52-07300R Sea urchins. (02-06)

WSR 02-03-068
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 02-13—Filed January 10, 2002, 4:59 p.m., effective January 13, 2002, 12:01 a.m.]

Date of Adoption: January 10, 2002.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000F.

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 regulation repeals pot limits in Crab Management Region 2E that were used for in-season adjustments to maintain commercial harvest allocation plans. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: January 13, 2002, 12:01 a.m.

January 10, 2002

J. P. Koenings

Director

by Larry Peck

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. January 13, 2002:

WAC 220-52-04000F Crab pot limits. (01-264)

extended benefits, and the penalties for failure to do so. Due to the brief timeframe between notification and the start date of the extended benefit period, emergency rules are necessary to ensure consistency.

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 7, Amended 0, Repealed 6.

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 9, 2002

Dr. Sylvia P. Mundy

Commissioner

WSR 02-03-074

EMERGENCY RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed January 11, 2002, 3:01 p.m.]

Date of Adoption: January 7, 2002.

Purpose: The proposed rules explain the requirements an individual must meet to be eligible for extended unemployment benefits. These include defining what work is considered suitable, the minimum job search requirements an individual must meet, and the penalties that an individual will incur for failing to accept or apply for suitable work.

Citation of Existing Rules Affected by this Order: Repealing WAC 192-16-033, 192-16-036, 192-16-040, 192-16-042, 192-16-045, and 192-16-047.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: On December 21, 2001, the United States Department of Labor notified the department that the state qualifies for extended unemployment benefits because of a rising unemployment rate. The extended benefit period began on January 6, 2002. There have been several changes in the law since the state was last in an extended benefit period (1994), and the existing regulations are out of date. It is necessary to update the rules to inform workers of the current requirements they must meet to be eligible for

CHAPTER 192-240

EXTENDED AND ADDITIONAL BENEFITS

NEW SECTION

WAC 192-240-010 Regular shareable benefits defined. The term "regular shareable benefits" means regular benefits in excess of 26 times your weekly benefit amount that are paid during an extended benefit period.

NEW SECTION

WAC 192-240-015 How to apply for extended benefits. File your application for extended benefits in writing, using a form provided by the department. The commissioner can authorize other filing methods in unusual circumstances or for the convenience of the department.

NEW SECTION

WAC 192-240-020 Suitable work provisions—Regular shareable and extended benefits—RCW 50.22.020 (3) and (4). (1) An individual receiving regular shareable or extended benefits must be available for suitable work. Except as provided in subsection (2), any job is considered suitable unless:

(a) It is not within your capabilities;

(b) The position is vacant because of a labor dispute, working conditions are substantially less favorable than similar work in the area, or you would be required to join or resign from a union or labor organization (see RCW 50.20.110);

(c) The gross weekly pay is less than your weekly benefit amount, plus any supplemental unemployment benefits you receive from your former employer; or

(d) The job pays less than the higher of the federal or state minimum wage.

(2) If you can demonstrate that you have good prospects of returning to work in your customary occupation within a reasonably short period of time, suitable work is considered to be work in keeping with your prior work experience, education, or training. "Good prospects for work" means you have:

(a) A definite recall or hire date within four weeks; or

(b) A probably recall or hire date within four weeks, based on an extremely favorable position on a union out-of-work list, seasonal factors, or historical experience.

NEW SECTION

WAC 192-240-025 Failure to apply for or accept suitable work—RCW 50.22.020 (4)(b)—Regular shareable and extended benefits. (1) You will be denied regular shareable or extended benefits if you fail:

(a) To accept any offer of suitable work as defined in WAC 192-240-020; or

(b) To accept a referral, or to apply for suitable work, when referred by your local employment center, if the job was:

(i) Offered to you in writing, or

(ii) Listed with the department.

(2) The denial is for the week in which the refusal occurs and until you work in four weeks and earn four times your weekly benefit amount.

NEW SECTION

WAC 192-240-030 Job search requirements to receive regular shareable or extended benefits—RCW 50.22.020(5). (1) To be eligible for regular shareable or extended benefits, you must show evidence of a systematic and sustained effort to find work. Your efforts must be of a quality and frequency that clearly indicate you are making sincere efforts to immediately return to gainful employment. At a minimum, your efforts must include at least four job search contacts with employers during each week you claim benefits.

(2) If you are a member of a referral union, contact with your union during a week counts as one of the job search contacts.

(3) You must keep a record or log of your job search contacts which contains the information required by WAC 192-180-015.

(4) Every week you file a claim for regular shareable or extended benefits, you must certify that you meet the job search requirements of this section.

(5) The department may review your job search activities at any time. You must provide the department with a copy of your job search log upon request. Employer contacts will be verified by the department as needed.

(6) The department will consider you to have met the job search requirements of this section and of RCW 50.22.020(5) for any week in which you participate in a training program that is approved by the commissioner.

NEW SECTION

WAC 192-240-035 How to qualify for regular shareable or extended benefits after leaving work for marital or domestic reasons—RCW 50.22.020(7). If you were denied benefits because you left work for family reasons as provided in RCW 50.20.050(4), you could qualify for regular benefits either through work and earnings or by reporting in person to your local employment center for each of ten weeks. However, you are not eligible for regular shareable or extended benefits unless, after leaving work, you obtained work and earned wages of seven times your weekly benefit amount. The wages earned must be in employment that is covered by Title 50 RCW or the comparable laws of another state or the federal government.

NEW SECTION

WAC 192-240-040 Penalties. (1) If you claim regular shareable or extended benefits during a week in which you failed to accept any offer of work, or failed to accept a referral or apply for any work as directed by the department:

(a) Benefits will be denied under RCW 50.20.080 if the work was suitable as defined by RCW 50.20.100 and RCW 50.20.110, and you did not have good cause for failing to apply for or accept work;

(b) If benefits are denied as provided in subsection (1)(a), you will also be denied benefits as provided in RCW 50.22.020;

(c) Benefits will be denied under only RCW 50.22.020 if the work was suitable as provided in that statute and WAC 192-240-020, but did not meet the provisions of RCW 50.20.100 and RCW 50.20.080.

(2) If you claim regular shareable or extended benefits during a week in which you failed to meet the job search requirements of WAC 192-240-030, benefits will be denied under RCW 50.22.020.

(3) A denial of benefits under RCW 50.22.020 starts the week in which the failure occurs, and continues indefinitely until you show that:

(a) You have worked in at least four weeks; and

(b) You have earned at least four times your weekly benefit amount. The employment does not need to be covered by Title 50 RCW.

REPEALER

The following sections of the Washington Administrative Code are hereby repealed:

WAC 192-16-033

Interpretive regulation—Regular shareable benefits defined.

EMERGENCY

- WAC 192-16-036 Interpretive regulation—
Requalification for regular
shareable, extended, or addi-
tional benefits under RCW
50.20.050(4).
- WAC 192-16-040 Interpretive regulation—
Good prospects of obtaining
work within a reasonably
short period of time under
RCW 50.22.020(3)—Share-
able, extended, or additional
benefits.
- WAC 192-16-042 Interpretive regulation—
Failure to apply for accept
work under RCW 50.22.020
(4)(b)—Shareable, extended,
or additional benefits.
- WAC 192-16-045 Interpretive regulation—Dis-
qualification for failing to
accept an offer of or to apply
for suitable work—Share-
able, extended, or additional
benefits.
- WAC 192-16-047 Interpretive regulation—
Interpretation of require-
ments of RCW
50.22.020(5)—Tangible evi-
dence of a systematic and
sustained effort to obtain
work—Shareable, extended,
or additional benefits.

WSR 02-03-090
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 02-15—Filed January 18, 2002, 3:36 p.m., effective January 22, 2002]

Date of Adoption: January 18, 2002.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-52-07300S; and amending WAC 220-
52-073.

Statutory Authority for Adoption: RCW 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 red and green 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. The closures at Eagle Harbor and Sinclair Inlet protect public health and promote an orderly fishery. There is insufficient time to promulgate permanent rule.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 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 22, 2002.

January 18, 2002

J. P. Koenigs

Director

NEW SECTION

WAC 220-52-07300T Sea urchins. Notwithstanding the provisions of WAC 220-52-073, effective January 22, 2002 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 1, 2, 3 and 4 and Marine Fish/Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, 26A, 26B, 26C, 26D, and 28A are open only on January 22, 23, 24, 28, 29, 30, and 31, 2002. The minimum size for green sea urchins is 2.25 inches (size in largest test diameter exclusive of the spines).

(2) Red sea urchins: Sea Urchin Districts 1 and 2 are open only on January 22, 23, 24, 28, 29, and 30, 2002. Sea Urchin District 3 is open only on January 22, 2002. The maximum daily landing for a vessel in Sea Urchin District 3 on January 22, 2002 is 1,400 pounds of red sea urchins. It is unlawful to harvest red sea urchins larger or smaller than the following size (size in largest test diameter exclusive of the spines).

(a) District 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 January 20, 21, 26 and 27, 2002.

(4) The following areas are closed to the harvest of sea urchins at all times:

(a) Those waters of Eagle Harbor west of a line projected from Wing Point to Eagle Harbor Creosote Light Number 1, then due west to the shore on Bainbridge Island.

(b) The waters of Sinclair Inlet west of a line projected southerly from the easternmost point of Point Turner to land-fall directly below the Veteran's Home in Annapolis.

REPEALER

The following section of the Washington Administrative Code is repealed effective January 22, 2002:

WAC 220-52-07300S Sea urchins. (02-12)

WSR 02-03-102

EMERGENCY RULES

UNIVERSITY OF WASHINGTON

[Filed January 22, 2002, 8:31 a.m., effective January 25, 2002]

Date of Adoption: January 15, 2002.

Purpose: To amend WAC 478-136-030 Limitations on use, from chapter 478-136 WAC, Use of University of Washington facilities. Subsection (10)(d) is new and provides the university with an additional security measure for public safety at Husky Stadium and other University of Washington facilities where large numbers of people gather for events.

Citation of Existing Rules Affected by this Order: Amending WAC 478-136-030.

Statutory Authority for Adoption: RCW 28B.20.130.

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 national events that occurred on September 11, 2001, have shown a need for heightened security measures not only at airports and courtrooms but at all public facilities where large numbers of people congregate. The amendment to WAC 478-136-030 allows the University of Washington to conduct visual bag inspections as an additional security measure for the safety of those attending public events at Husky Stadium and other University of Washington facilities. Visual inspections that do not actually prohibit entry into an event, if the ticket holder is willing to dispose of any prohibited material, are the least restrictive means to protecting the safety of attendees.

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 Mak-

ing: 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: This emergency rule follows a previous emergency rule which went into effect September 26, 2001 (see WSR 01-20-029). Per RCW 34.05.350(2) the University of Washington is actively undertaking permanent rule making for this rule as evidenced by WSR 01-20-069 (preproposal statement of inquiry) and WSR 02-01-104 (proposed rules).

Effective Date of Rule: January 25, 2002.

January 15, 2002

Richard L. McCormick
President

AMENDATORY SECTION (Amending WSR 01-20-029 [01-11-135], filed 9/26/01 [5/23/01], effective 9/26/01 [6/23/01])

WAC 478-136-030 Limitations on use. (1) Freedom of expression is a highly valued and indispensable quality of university life. However, university facilities may not be used in ways which obstruct or disrupt university operations, the freedom of movement, or any other lawful activities. Additionally, use of university facilities may be subject to reasonable time, place and manner restrictions.

(2) University facilities may be used for events and forums regarding ballot propositions and/or candidates who have filed for public office so long as the event has received preliminary approval by an administrative or academic unit and final approval by the committee on the use of university facilities. There are, however, certain limitations on the use of university facilities for these political activities.

(a) First priority for the use of campus facilities shall be given to regularly scheduled university activities.

(b) University facilities may be used for political purposes such as events and forums regarding ballot propositions and/or candidates who have filed for public office only when the full rental cost of the facility is paid. However, use of state funds for payment of facility rental costs is prohibited.

(c) Forums or debates may be scheduled at full facility rental rates if all parties to a ballot proposition election or all candidates who have filed for office for a given position, regardless of party affiliation, are given equal access to the use of facilities within a reasonable time.

(d) No person shall solicit contributions on university property for political uses, except in instances where this limitation conflicts with applicable federal law regarding interference with the mails.

(e) Public areas outside university buildings may be used for political purposes such as events and forums regarding ballot propositions and/or candidates who have filed for public office, excluding solicitation of funds, provided the other normal business of the university is not disrupted and entrances to and exits from buildings are not blocked.

(f) University facilities or services may not be used to establish or maintain offices or headquarters for political candidates or partisan political causes.

(3) University facilities may not be used for private or commercial purposes such as sales, advertising, or promotional activities unless such activities serve an educational purpose, as determined by the committee on the use of university facilities.

(4) Nothing in these rules is intended to alter or affect the regular advertising, promotional, or underwriting activities carried on, by, or in the regular university media or publications. Policies concerning advertising, promotional or underwriting activities included in these media or publications are under the jurisdiction of and must be approved by their respective management or, where applicable, advisory committees, in accordance with applicable state and federal laws.

(5) In accordance with WAC 478-136-010, the university will make its facilities available only for purposes related to the educational mission of the university, as determined by the committee on the use of university facilities, including but not limited to instruction, research, public assembly, and student activities. When permission is granted to use university facilities for approved instructional or related purposes, as a condition of approval, the user of university facilities agrees to include in all materials nonendorsement statements in the form approved by the committee on the use of university facilities. "Materials" includes all communications, advertisement, and any other printed, electronic, or broadcast/telecast information related to the user's activities offered in university facilities. The committee will determine the content, size of print and placement of the nonendorsement language. The university will not make its facilities available for instructional or related purposes that compete with courses or programs offered by the university.

(6) Solicitation, or distribution of handbills, pamphlets and similar materials by anyone, whether a member of the university community or of the general public, is not permitted in those areas of campus to which access by the public is restricted or where such solicitation or distribution would significantly impinge upon the primary business being conducted.

(7) Solicitation and distribution of materials in university residence halls are governed by residence hall policies. No solicitation of a commercial nature is permitted in university residence halls. Commercial advertising may be allowed, and is restricted to certain designated areas of each residence hall, when it is related to the university's mission and approved by the department of housing and food services.

(8) Electronic amplification on the grounds of the campus is prohibited with the following exceptions:

(a) The lawn area immediately west of the Husky Union Building will be available for open-air speaking events using directional and volume-controlled speech amplification equipment provided by the university. Use of the Husky Union Building lawn site will be available to registered or official student organizations and faculty or staff groups on a first-come, first-served basis. The amplification system will be issued upon presentation of a currently valid student, faculty or staff identification card at the Husky Union Building Reservation Office.

(b) The committee on the use of university facilities may grant permission, under special circumstances, for the use of other amplification equipment on the lawn site west of the

Husky Union Building or in other outdoor locations. Permission should be requested through:

University of Washington
Secretary to the Committee on the
Use of University Facilities
400 Gerberding Hall
Box 351210
Seattle, WA 98195-1210

(or phone: 543-2560), sufficiently in advance of the program to allow timely consideration.

(9)(a) No person may use university facilities to camp, except if permission to do so has been granted in accordance with the provisions of chapters 478-116 and 478-136 WAC or except as provided in (b) of this subsection. "Camp" means to remain overnight, to erect a tent or other shelter, or to use sleeping equipment, a vehicle, or a trailer camper, for the purpose of or in such ways as will permit remaining overnight. Violators are subject to arrest and criminal prosecution under applicable state, county and city laws.

(b) This provision does not prohibit use of the university residence facilities in accordance with chapter 478-156 WAC or the use of facilities where the employee remains overnight to fulfill the responsibilities of his or her position or where a student remains overnight to fulfill the requirements of his or her course of study.

(10) Within the limits of applicable laws, the University of Washington is committed to establishing and maintaining safe conditions for persons attending football games in Husky Stadium or other athletic events or concerts in campus facilities. Accordingly, the rules enumerated below will apply to all such events and be strictly enforced.

(a) The possession or consumption of alcoholic beverages or illegal drugs is prohibited. In addition to having the beverages or drugs confiscated, violators may be subject to university disciplinary action and/or legal proceedings, and removal from the events.

(b) Air horns, glass bottles, cans, picnic baskets, bota bags, ice chests, and thermoses (in excess of two-quart capacity) are prohibited. Individuals possessing such will not be admitted to, or will be removed from, Husky Stadium or other athletic or concert facilities until the items have been stored temporarily at locations provided for that purpose or disposed of in some other manner.

(c) Smoking is prohibited in the seating areas of all athletic stadia. Smoking is permitted on pedestrian concourses.

(d) All persons entering events in Husky Stadium or other athletic venues or events in other campus auditoria or facilities shall be subject to having all containers, bags, backpacks, coolers, or similar items visually inspected. Security personnel shall first ask permission to visually inspect the item and advise the person that he/she may refuse. Persons who refuse to allow inspection shall be allowed to return the time to a vehicle or otherwise dispose of it, after which admission shall be allowed. Persons who refuse the visual inspection and refuse to dispose of the item shall be denied entry.

(11) Only public service announcements and acknowledgment of sponsors will be allowed on scoreboards at athletic venues.

(a) For purposes of this section, a public service announcement is defined as an announcement which promotes the activities or services of federal, state or local governments, including the University of Washington, or non-profit organizations, or generally contributes to the community's welfare and interests.

(b) In acknowledgment of their sponsorship of the scoreboards or sponsorship of events and programs, sponsors may propose public service announcements for display on the scoreboard during athletic events. The public service announcement may be accompanied by a sponsor's name or logo, but in keeping with university policy may not directly promote the products or services of the company. The text and graphics of public service announcements must be submitted at least three days in advance to the department of intercollegiate athletics for approval by the university.

(c) In addition to these public service announcements, sponsors also may be acknowledged by the display of corporate logos, trademarks, or other approved messages upon panels located on the scoreboard.

(12) The University of Washington is committed to maintaining a safe and healthful work and educational environment for all faculty, staff, students, and visitors. Accordingly, the University of Washington establishes the following smoking policy to protect nonsmokers from exposure to smoke in their university-associated environments and to protect life and property against fire hazards:

(a) Except as provided in subsections (10)(c) and (12)(b) of this section, smoking is prohibited in all university vehicles, inside all buildings owned or occupied by the university and/or used by the university's faculty, staff or students and at any outside areas or locations that may directly or indirectly affect the air supply of buildings or carry smoke into buildings.

(b) Smoking may be permitted in student rooms in university residence halls and apartments in university student housing in accordance with smoking regulations established for those facilities by the vice-president for student affairs.

(c) The director of environmental health and safety may designate specific outdoor locations as no smoking areas.

(d) Any student, staff, or faculty member who violates the university smoking policy may be subject to disciplinary action. In addition, violations of the university smoking policy may be subject to enforcement by the University of Washington police department.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

EMERGENCY

WSR 02-01-029
RULES OF COURT
STATE SUPREME COURT
[December 6, 2001]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENTS TO RAP 2.2(a),) NO. 25700-A-725
2.3(b), 2.4, 5.1, 7.2, 8.1, 9.1, 9.2, FORM 15)
(Replaces Current Form 15), 9.5, NEW)
FORM 15A, 9.6, 10.1, 10.2, 10.3, 10.4,)
10.5, 10.7, 10.8, 10.9, 10.10, FORM 22,)
FORM 23, 11.4, 11.5, 11.6, 12.3, 12.4, 12.7,)
13.4, 14.6, 17.2, 17.3, 17.4, 18.1, 18.4,)
18.13, 18.15, RALJ 1.2, RALJ 6.4, and)
RALJ 9.2)

The Washington State Bar Association having recom-
mended the adoption of the proposed amendments to RAP
2.2(a), 2.3(b), 2.4, 5.1, 7.2, 8.1, 9.1, 9.2, FORM 15 (Replaces
Current Form 15), 9.5, NEW FORM 15A, 9.6, 10.1, 10.2,
10.3, 10.4, 10.5, 10.7, 10.8, 10.9, 10.10, FORM 22, FORM
23, 11.4, 11.5, 11.6, 12.3, 12.4, 12.7, 13.4, 14.6, 17.2, 17.3,
17.4, 18.1, 18.4, 18.13, 18.15, RALJ 1.2, RALJ 6.4, and
RALJ 9.2, and the Court having approved the proposed
amendments for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(f), the pro-
posed amendments as attached hereto are to be published for
comment in January 2002 in the Washington Reports, Wash-
ington Register, Washington State Bar Association and the
Administrative Office of the Courts' websites.

(b) The purpose statement as required by GR 9(d), is
published solely for the information of the Bench, Bar and
other interested parties.

(c) Comments are to be submitted to the Clerk of the
Supreme Court by either Mail or Internet E-Mail by no later
than April 30, 2002. Comments may be sent to the following
addresses: P.O. Box 40929, Olympia, Washington 98504-
0929, or Lisa.Bausch@courts.wa.gov. Comments submitted
by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 6th day of Decem-
ber 2001.

Gerry L. Alexander

CHIEF JUSTICE

GR 9(d) Cover Sheet

Proposal to Amend RAP 2.2(a)

Concerning Decisions of the Trial Court Which May Be
Appealed

Submitted by the Board of Governors of the Washington
State Bar Association

Purpose: This is a companion amendment to those pro-
posed for RAP 2.4, concerning review of attorney fee awards.
It makes clear that a party may, and indeed should if review
on the merits is desired, appeal from a final judgment

whether or not an award of attorney fees or costs is reserved
for future determination.

RULE OF APPELLATE PROCEDURE 2.2
DECISIONS OF THE SUPERIOR COURT WHICH MAY BE
APPEALED

(a) Generally. Unless otherwise prohibited by statute or
court rule and except as provided in sections (b) and (c), a
party may appeal from only the following superior court
decisions:

(1) Final Judgment. The final judgment entered in any
action or proceeding, regardless of whether the judgment
reserves for future determination an award of attorney fees or
costs.

(1) - (13) Unchanged.

(b) - (d) Unchanged.

GR 9(d) Cover Sheet

Proposal to Amend RAP 2.3(b)
Concerning Decisions of the Trial Court Which May Be
Reviewed by Discretionary Review

Submitted by the Board of Governors of the Washington
State Bar Association

Purpose: RAP 2.3(b) currently lists three grounds under
which discretionary review will be accepted. The unnum-
bered paragraph at the end of that section provides additional
factors that the appellate court may consider in making a
determination under the enumerated grounds. The commit-
tee believed that certification or stipulation under the circum-
stances set forth in that last paragraph should constitute an
independent ground for discretionary review.

The proposed amendment also changes the word "will"
to "may" in the introductory clause, to make clear that review
under any of the enumerated grounds is discretionary - i.e.,
that even by stipulating under proposed new subsection (4)
the parties cannot force the appellate court to grant review.

RULE OF APPELLATE PROCEDURE 2.3
DECISIONS OF THE TRIAL COURT WHICH MAY BE REVIEWED
BY DISCRETIONARY REVIEW

(a) Unchanged.

(b) Considerations Governing Acceptance of Review.
Except as provided in section (d), discretionary review will
may be accepted only in the following circumstances:

(1) If the The superior court has committed an obvious
error which would render further proceedings useless;

(2) If the The superior court has committed probable
error and the decision of the superior court substantially
alters the status quo or substantially limits the freedom of a
party to act; or

(3) If the The superior court has so far departed from the
accepted and usual course of judicial proceedings, or so far
sanctioned such a departure by an inferior court or adminis-
trative agency, as to call for review by the appellate court; or

(4) ~~The appellate court may consider that the~~ The superior court has certified, or that all parties to the litigation have stipulated, that the order involves a controlling question of law as to which there is substantial ground for a difference of opinion and that immediate review of the order may materially advance the ultimate termination of the litigation.

(c) - (d) Unchanged.

GR 9(d) Cover Sheet

**Proposal to Amend RAP 2.4
Concerning How to Obtain Review of Attorney Fee Awards**

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: The Committee discussed extensively what the appropriate procedure should be for obtaining review of an award of attorney fees entered as part of, or after, a judgment on the merits. Its reached two primary conclusions: (1) parties should be encouraged to seek timely review of final judgments, rather than wait for orders on fee requests that may be entered months later, and (2) the rules should not contain "traps for the unwary." With these policies in mind, the Committee recommended two amendments.

The amendment to section (b) is the "inverse" of the amendment to (g), discussed below. It provides that even if one timely seeks review of an order awarding attorney fees, this does *not* bring up for review the underlying judgment or order on the merits. A party must file a timely notice for review of the judgment or order itself. This amendment is intended to overrule cases such as *Franz v. Lance*, 119 Wn.2d 780 (1992) and *Wlasiuk v. Whirlpool Corp.*, 76 Wn. App. 250 (1994).

Section (g) is amended to make clear that a timely appeal or motion for discretionary review from a decision on the merits brings up for review an award of attorney fees entered after review is accepted, without the filing of an amended notice of appeal or notice for discretionary review. This is intended to apply both to cases where the trial court awards fees incurred at the trial level and to cases, such as marriage dissolutions, where the trial court may award fees for the appeal.

**RULE OF APPELLATE PROCEDURE 2.4
SCOPE OF REVIEW OF A TRIAL COURT DECISION**

(a) Unchanged.

(b) **Order or Ruling Not Designated in Notice.** The appellate court will review a trial court order or ruling not designated in the notice, including an appealable order, if (1) the order or ruling prejudicially affects the decision designated in the notice, and (2) the order is entered, or the ruling is made, before the appellate court accepts review. A timely notice of appeal of a trial court decision relating to attorney fees and costs does not bring up for review a decision previously entered in the action that is otherwise appealable under

rule 2.2(a) unless a timely notice of appeal has been filed to seek review of the previous decision.

(c) - (f) Unchanged.

(g) **Award of Attorney Fees.** An appeal from a decision on the merits of a case brings up for review an award of attorney fees entered after the appellate court accepts review of the decision on the merits, ~~if the party seeking review files within the time provided in RAP 5.2 an amended notice of appeal or an amended notice for discretionary review as provided in rule 7.2(d).~~

GR 9(d) Cover Sheet

**Proposal to Amend RAP 5.1
Concerning How to Initiate Review**

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: This is a housekeeping amendment, necessary if the proposed amendments to RAP 2.4 and 7.2 are adopted.

**RULE OF APPELLATE PROCEDURE 5.1
REVIEW INITIATED BY FILING NOTICE OF APPEAL OR
NOTICE FOR DISCRETIONARY REVIEW**

(a) - (e) Unchanged.

(f) **Order Entered After Review Accepted.** If a party wants to seek review of a trial court decision entered pursuant to rule 7.2 after review in the same case has been accepted by the appellate court, the party must initiate a separate review of the decision by timely filing a notice of appeal or notice for discretionary review, except as provided by rules 2.4(c), ~~and (f) and (g), 7.2(i), 8.1(h), 8.2(b), and 9.13.~~

GR 9(d) Cover Sheet

**Proposal to Amend RAP 7.2
Concerning Authority of Trial Court After Review Accepted**

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: The amendment to section (d) clarifies that it concerns the authority of the trial court to award attorney fees and litigation expenses relating to the *appeal* of a case involving a dissolution of marriage or other matters listed. Consistent with the proposed amendment to RAP 2.4(g), it eliminates the requirement that an amended notice be filed, as long as review of the underlying judgment or order has been timely sought.

The amendment to section (i) clarifies the authority of the trial court to act on claims for attorney fees and litigation expenses, in addition to "costs." The heading is likewise amended. Again, consistent with the proposed amendment to RAP 2.4(g), the second sentence is amended to allow review of a decision on attorney fees and expenses in the same

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review proceeding challenging the underlying judgment, without the filing of a separate notice of appeal or notice for discretionary review.

RULE OF APPELLATE PROCEDURE 7.2

AUTHORITY OF TRIAL COURT AFTER REVIEW ACCEPTED

(a) - (c) Unchanged.

(d) **Attorney Fees and Litigation Expenses On Appeal**. The trial court has authority to award attorney fees and litigation expenses for an appeal in a marriage dissolution, a legal separation, a declaration of invalidity proceeding, or an action to modify a decree in any of these proceedings, and in any other action in which applicable law gives the trial court authority to do so. ~~To obtain review of a trial court decision on attorney fees and litigation expenses in the same review proceeding as that challenging the judgment, a party must file an amended notice of appeal or an amended notice for discretionary review in the trial court.~~

(e) - (h) Unchanged.

(i) **Attorney Fees, Costs and Litigation Expenses**. The trial court has authority to act on claims for attorney fees, costs and litigation expenses objections to costs. A party may obtain review of a trial court decision on attorney fees, costs and litigation expenses in the same review proceeding as that challenging the judgment without filing a separate notice of appeal or notice for discretionary review.

(j) Unchanged.

GR 9(d) Cover Sheet

Proposal to Amend RAP 8.1 Concerning Supersedeas Procedure

Submitted by the Board of Governors of the Washington
State Bar Association

Purpose: The amendments are intended (1) to clarify the existing rule by improving its structure and (2) to allow a party to use cash deposited into the registry of the court pursuant to RCW 36.48.090 as the equivalent of a supersedeas bond.

In general, the proposed reorganization of the rule first addresses, in section (b), the types of judgments that may be stayed, and then goes on to set forth the procedural aspects of stays in subsequent sections.

Section (b) is first amended to make clear that a trial court decision may be enforced pending review unless it is stayed pursuant to this rule. Sections (b)(1) - (4) are amended by deleting the language relating to the amount of security; this language is restored in proposed new section (c) on "supersedeas amount." These amendments also add "cash" as an authorized equivalent to a bond, on the theory that cash is better than a bond and easier to obtain. Under the current rule, a party may file a bond without court approval but cash deposits are deemed "alternate security" and require court authorization under section (b)(4).

As noted, section (c) incorporates existing language into a new section dealing specifically with the amount of the

security required. Section (c)(3) incorporates language addressing periodic payments currently in section (f), which would be eliminated. Amendments to other sections are proposed for consistency and clarity; sections are renumbered as necessary.

RULE OF APPELLATE PROCEDURE 8.1 SUPERSEDEAS PROCEDURE

(a) **Application of Civil Rules**. This rule provides a means of delaying the enforcement of a trial court decision in a civil case in addition to the means provided in CR 62 (a), (b), and (h).

(b) **Procedure Right to Stay Enforcement of Trial Court Decision**. A trial court decision may be enforced pending appeal or review unless stayed pursuant to the provisions of this rule. Any party to a review proceeding has the right to stay enforcement of a money judgment, or a decision affecting real, personal or intellectual property, pending review. Stay of a decision in other civil cases is a matter of discretion. ~~Enforcement of a trial court decision may be stayed through the following procedures:~~

(1) **Money Judgment**. Except when prohibited by statute, a party may ~~obtain a stay of enforcement of a money judgment by filing in the trial court a supersedeas bond or cash, or by alternate security approved by the in the trial court pursuant to subsection (4), below.~~ The amount of the bond shall be the amount of the judgment, plus interest likely to accrue during the pendency of the appeal and attorney fees, costs, and expenses likely to be awarded on appeal. If a party seeks to stay enforcement of only part of the judgment, the bond shall be fixed at such sum as the trial court determines is appropriate to secure that portion of the judgment, plus interest likely to accrue during the pendency of the appeal and attorney fees, costs, and expenses likely to be awarded on appeal. If all or part of the judgment is secured by other means, the bond shall be fixed at such sum as the trial court determines is appropriate to secure the otherwise unsecured portion of the money judgment, plus interest likely to accrue during the pendency of the appeal on the unsecured portion of the judgment and attorney fees, costs, and expenses likely to be awarded on appeal that are not secured by other means.

(2) **Decision Affecting Property**. Except where prohibited by statute, a party may obtain a stay of enforcement of a decision affecting the rights to possession, ownership or use of real property, or of tangible personal property, or of intangible personal property, by filing in the trial court a supersedeas bond or cash, or by alternate security approved in by the trial court pursuant to subsection (4), below. If the decision affects the rights to possession, ownership or use of a trademark, trade secret, patent, or other intellectual property, a party may obtain a stay in the trial court only if it is reasonably possible to quantify the loss which would be incurred by the prevailing party in the trial court as a result of the party's inability to enforce the decision during review. ~~The amount of the bond shall be the amount of any money judgment entered by the trial court plus the amount of the loss which the prevailing party in the trial court would incur as a result of the party's inability to enforce the judgment during review. Ordinarily, the amount of loss will be equal to the reasonable~~

value of the use of the property during review. A party claiming that the reasonable value of the use of the property is inadequate to secure the loss which the party may suffer as a result of the party's inability to enforce the judgment shall have the burden of proving that the amount of loss would be more than the reasonable value of the use of the property during review. If the property at issue has value, the property itself may fully or partially secure any loss and the court may determine that no bond need be filed or may reduce the amount of the bond accordingly.

(3) *Other Civil Cases.* Except where prohibited by statute, in other civil cases, including cases involving equitable relief ordered by the trial court, the appellate court has authority, before or after acceptance of review, to stay enforcement of the trial court decision upon such terms as are just. The appellate court ordinarily will condition such relief from enforcement of the trial court decision on the furnishing of a supersedeas bond, cash or other security. In evaluating whether to stay enforcement of such a decision, the appellate court will (i) consider whether the moving party can demonstrate that debatable issues are presented on appeal and (ii) compare the injury that would be suffered by the moving party if a stay were not imposed with the injury that would be suffered by the nonmoving party if a stay were imposed. The party seeking such relief should use the motion procedure provided in Title 17.

(4) *Alternate Security.* Upon motion of a party, the trial court or appellate court may authorize a party to post security other than a bond or cash. The effect of doing so is equivalent to the filing of a supersedeas bond or cash.

(c) *Supersedeas Amount.* The amount of the supersedeas bond, cash or alternate security required shall be as follows:

(1) *Money Judgment.* The supersedeas amount shall be the amount of the judgment, plus interest likely to accrue during the pendency of the appeal and attorney fees, costs, and expenses likely to be awarded on appeal.

(2) *Decision Affecting Property.* The supersedeas amount shall be the amount of any money judgment entered by the trial court plus the amount of the loss which the prevailing party in the trial court would incur as a result of the party's inability to enforce the judgment during review. Ordinarily, the amount of loss will be equal to the reasonable value of the use of the property during review. A party claiming that the reasonable value of the use of the property is inadequate to secure the loss which the party may suffer as a result of the party's inability to enforce the judgment shall have the burden of proving that the amount of loss would be more than the reasonable value of the use of the property during review. If the property at issue has value, the property itself may fully or partially secure any loss and the court may determine that no additional security need be filed or may reduce the supersedeas amount accordingly.

(3) *Stay of Portion of Judgment.* If a party seeks to stay enforcement of only part of the judgment, the supersedeas amount shall be fixed at such sum as the trial court determines is appropriate to secure that portion of the judgment, plus interest likely to accrue during the pendency of the appeal and attorney fees, costs, and expenses likely to be

awarded on appeal. If the judgment or decision provides for periodic payments, the trial court may in its discretion deny supersedeas, or permit the periodic posting of bonds, cash or alternate security.

(ed) *Effect of Filing Bond or Other Security.* Upon the filing of a supersedeas bond, cash or other alternate security approved by the trial court pursuant to subsection (4) above, enforcement of a trial court decision against a party furnishing the bond, cash or other alternate security is stayed. Unless otherwise ordered by the trial court or appellate court, upon the filing of a supersedeas bond, cash or other alternate security any execution proceedings against a party furnishing the bond, cash or other alternate security shall be of no further effect.

(de) *Objection to Supersedeas Bond.* A party may object to the sufficiency of an individual surety on a bond, to the form of a bond, or to the amount of a bond or cash supersedeas by a motion in the trial court made within 7 days after the party making the motion is served with a copy of the bond and any supporting affidavits, if required. If the trial court determines that the bond is improper in form, or that the amount of the bond, cash or that the net worth of an individual surety is inadequate, stay of enforcement of the trial court decision may be preserved only by furnishing a proper bond or supplemental bond or cash within 7 days after the entry of the order declaring the bond supersedeas deficient.

(ef) *Supersedeas by Party Not Required to Post Bond.* If a party is not required to post a bond, that party shall file a notice that the decision is superseded without bond and, after filing the notice, the party shall be in the same position as if the party had posted a bond pursuant to the provisions of this rule.

(f) *Periodic Payments.* If the judgment or decision provides for periodic payments, the trial court may deny or allow supersedeas in its discretion.

(g) *Modification of Supersedeas Decision.* After a supersedeas bond, cash or other alternate security has been filed, the trial court may, upon application of a party or on its own motion, and for good cause shown, discharge the bond, change the supersedeas amount of the bond or other security or require a new bond, additional cash or other alternate security.

(h) *Review of Supersedeas Decision.* A party may object to a supersedeas decision of the trial court by motion in the appellate court.

GR 9(d) Cover Sheet

Proposal to Amend RAP 9.1 Concerning Composition of Record on Review of Superior Court Decision Reviewing Decision of Court of Limited Jurisdiction

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: This proposed amendment is a companion to that proposed for RALJ 6.4. It defines the record for pur-

poses of review of a superior court decision reviewing a decision of a court of limited jurisdiction. It also requires the superior court to transmit the original record as considered by the superior court to the appellate court, upon request.

Please see the purpose statement for the proposed amendment to RALJ 6.4 for additional information.

**RULE OF APPELLATE PROCEDURE 9.1
COMPOSITION OF RECORD ON REVIEW**

(a) - (d) Unchanged.

(e) Review of Superior Court Decision on Review of Decision of Court of Limited Jurisdiction. Upon review of a superior court decision reviewing a decision of a court of limited jurisdiction pursuant to rule 2.3(d), the record shall consist of the record of proceedings and the transcript of electronic record as defined in RALJ 6.1 and 6.3A. When requested by the appellate court, the superior court shall transmit the original record of proceedings and transcript of electronic record as was considered by the superior court on the appeal from the decision of the court of limited jurisdiction.

GR 9(d) Cover Sheet

Proposal to Amend RAP 9.2

Concerning Report of Proceedings/Time for Filing Statement of Arrangements

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: Rule 9.2 outlines procedures for filing a statement of arrangements and preparing the report of proceedings. Currently the statement of arrangements is due 45 days after the notice of appeal was filed or discretionary review was granted. The proposed change to section (a) requires the statement of arrangements to be filed in 30 days rather than 45 days. The purpose of the statement of arrangements is to notify the court that the arrangements have been made for the preparation of the transcript. There is no justification for this process to require 45 days; reducing it to 30 days should be sufficient.

This proposed change is a companion to two other recommendations for amendments to Rules 9.5 (time for filing the verbatim report of proceedings) and 9.6 (time for filing the designation of clerk's papers). The purpose of the three recommendations is to set the same due date (30 days after the filing of the notice of appeal) for both the statement of arrangements and the designation of clerk's papers and to extend the period allowed to file the verbatim report of proceedings from 45 to 60 days after filing the statement of arrangements. Under both the current rules and the proposed changes the verbatim report of proceedings is due 90 days from the filing of the notice of appeal. Therefore, the proposals do not extend the overall time allowed for the preparation of the record. The chart below depicts the current and proposed time frames for filing the designation of clerk's papers,

the statement of arrangements and the verbatim report of proceedings.

Currently the appellant has 45 days to file the statement of arrangements and only 15 to file the designation of clerk's papers. As indicated above, appellants should not need 45 days to make arrangements for transcript to be prepared. It is more equitable to reduce that time to 30 days and increase the time for the reporter to prepare the transcript from 45 to 60 days, retaining the current requirement to file the transcript 90 days from the filing of the notice of appeal. Also, as indicated in the GR 9 cover sheet for Rule 9.6, 15 days is often not sufficient time to file the designation of clerk's papers. In criminal cases, the appellate attorney may not even be appointed by the due date. Allowing 30 days to file both the statement of arrangements and the designation of clerk's papers provides the appellant with sufficient time to review the trial court record and determine what to request in each document.

This change should assist counsel by allowing for additional time for filing of the designation of clerk's papers. Court reporters will also benefit from this change since additional time is allowed for the filing of the verbatim report of proceedings.

Form 15 in the Appendix of Forms has been updated to reflect the changes in the proposed rule.

Time Frames Under Existing Rules 9.2, 9.5, and 9.6

Notice of Appeal Filed or Notice of Discretionary Review Granted	Designation of Clerk's Papers 15 days	Statement of Arrangements 45 days	Verbatim Report of Proceedings 45 days
90 days total			

Time Frames Under Proposed Changes to Rules 9.2, 9.5, and 9.6

Notice of Appeal Filed or Notice of Discretionary Review Granted	Designation of Clerk's Papers 30 days	Statement of Arrangements 30 days	Verbatim Report of Proceedings 60 days
90 days total			

**RULE OF APPELLATE PROCEDURE 9.2
VERBATIM REPORT OF PROCEEDINGS**

(a) Transcription and Statement of Arrangements. If the party seeking review intends to provide a verbatim report of proceedings, the party should arrange for transcription of and payment for an original and one copy of the verbatim report of proceedings within 30 45 days after the notice of appeal was filed or discretionary review was granted. If the proceeding being reviewed was recorded on videotape, transcription of the videotapes shall be completed by a court-approved transcriber in accordance with procedures devel-

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oped by the Office of the Administrator for the Courts. Copies of these procedures are available at the court administrator's office in each county where there is a courtroom that videotapes proceedings or through the Office of the Administrator for the Courts. The party seeking review must file with the appellate court and serve on all parties of record and all named court reporters a statement that arrangements have been made for the transcription of the report and file proof of service with the appellate court. The statement must be filed within 30 45 days after the notice of appeal was filed or discretionary review was granted. The party must indicate the date that the report of proceedings was ordered, the financial arrangements which have been made for payment of transcription costs, the name of each court reporter or other person authorized to prepare a verbatim report of proceedings who will be preparing the transcript, the hearing dates, and the trial court judge. If the party seeking review does not intend to provide a verbatim report of proceedings, a statement to that effect should be filed in lieu of a statement of arrangements within 30 45 days after the notice of appeal was filed or discretionary review was granted and served on all parties of record.

(b) - (f) Unchanged.

Form 15

(Replaces Current Form 15)

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON DIVISION _____

-) No.
)
) STATEMENT OF ARRANGEMENTS
) [Rule 9.2(a)]
)

_____, attorney for _____, states that on _____, 20____, I ordered transcription of the original and one copy of the verbatim report of proceedings from the courtreporter(s)/transcriptionist(s) named below and arranged to pay the cost of transcriptions as follows:

Table with 3 columns: Hearing date(s), Judge, Court Reporter/Transcriptionist

___ A complete verbatim report of proceedings has been ordered.

___ A partial report has been ordered. In compliance with RAP 9.2, the following issues will be presented.

ATTORNEY FOR _____
WSBA No. _____

CERTIFICATE OF SERVICE

I certify that on the ____ day of _____, 20____, I caused a true and correct copy of this Statement of Arrangements to be served on the following in the manner indicated below:

Counsel for _____ () U.S. Mail
Name _____ () Hand Delivery
Address _____ () _____

Counsel for _____ () U.S. Mail
Name _____ () Hand Delivery
Address _____ () _____

Counsel for _____ () U.S. Mail
Name _____ () Hand Delivery
Address _____ () _____

By: _____

Statement of Arrangements

GR 9(d) Cover Sheet

Proposal to Amend RAP 9.5
Concerning Time for Filing and Service of Report of Proceedings

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: Rule 9.5 governs the filing of the verbatim report of proceedings. In section (a), the report of proceedings must be filed 45 days after the statement of arrangements is filed. The first proposed change to this rule requires the report of proceedings to be filed 60 days after the statement of arrangements is filed.

This proposed change is a companion to two other recommendations for amendments to Rules 9.2 (time for filing the statement of arrangements) and 9.6 (time for filing the designation of clerk's papers). The purpose of the three recommendations is to set the same due date (30 days after the filing of the notice of appeal) for both the statement of arrangements and the designation of clerk's papers and to extend the period allowed to file the verbatim report of proceedings from 45 to 60 days after filing the statement of arrangements. Under both the current rules and the proposed changes the report of proceedings is due 90 days from the filing of the notice of appeal. Therefore, the proposals do not extend the overall time allowed for the preparation of the record. The chart below depicts the current and proposed time frames for filing the designation of clerk's papers, the statement of arrangements and the verbatim report of proceedings.

Currently the appellant has 45 days to file the statement of arrangements and only 15 to file the designation of clerk's

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papers. As indicated in the GR 9 cover sheet for Rule 9.2, appellants should not need 45 days to make arrangements for transcript to be prepared. It is more equitable to reduce that time to 30 days and increase the time for the reporter to prepare the transcript from 45 to 60 days, retaining the current requirement to file the transcript 90 days from the filing of the notice of appeal. Also, as indicated in the GR 9 cover sheet for Rule 9.6, 15 days is often not sufficient time to file the designation of clerk's papers. In criminal cases, the appellate attorney may not even be appointed by the due date. Allowing 30 days to file both the statement of arrangements and the designation of clerk's papers provides the appellant with sufficient time to review the trial court record and determine what to request in each document.

This change should assist counsel by allowing for additional time for filing of the designation of clerk's papers. Court reporters will also benefit from this change since additional time is allowed for the filing of the verbatim report of proceedings.

In addition to recommending a change in the time allowed to prepare the transcript, a second proposed change concerns section (a)(2), which states that if the transcript was computer generated, a diskette must also be filed. An additional proposed change to this section allows the filing of a compact disk rather than a diskette. Enforcement of this requirement is difficult in any event. If a diskette or compact disk is not provided, the court has no way of knowing whether it is a violation of the rule or if the transcript was not computer generated. Therefore, a proposed change to section (b) requires the court reporter to file a declaration notifying the court that either the transcript was computer generated and a diskette filed or that the transcript was not computer generated. See proposed new Form 15A.

The new form reflects an additional proposed amendment to section (b). Currently the verbatim report of proceedings is filed in the trial court and notice of the filing is served on all other parties. The proposed change requires the appellate court to be served also. When serving the appellate court, the reporter is required to include the declaration stating whether or not the transcript was computer generated and if a diskette was filed.

This requirement to serve the appellate court also provides notice to the court of the exact day the report of proceedings is filed. The first brief due date is set from the filing of the report of proceedings and there is currently no state-wide procedure for trial courts to notify appellate courts of the filing. Often the appellate court does not know when a report of proceedings was filed until the transcript is received by the appellate court, which could be weeks after it was filed in the trial court.

Time Frames Under Existing Rules 9.2, 9.5, and 9.6

Notice of Appeal Filed or Notice of Discretionary Review Granted	Designation of Clerk's Papers	Statement of Arrangements	Verbatim Report of Proceedings
15 days		45 days	45 days
90 days total			

Time Frames Under Proposed Changes to Rules 9.2, 9.5, and 9.6

Notice of Appeal Filed or Notice of Discretionary Review Granted	Designation of Clerk's Papers	Statement of Arrangements	Verbatim Report of Proceedings
30 days		30 days	60 days
90 days total			

**RULE OF APPELLATE PROCEDURE 9.5
FILING AND SERVICE OF REPORT OF PROCEEDINGS—OBJECTIONS**

(a) **Generally.** The party seeking review must file an agreed or narrative report of proceedings with the clerk of the trial court within 60 45 days after the statement of arrangements is filed. The court reporter or person authorized to prepare the verbatim report of proceedings must file it within 60 45 days after the statement of arrangements is filed and all named court reporters are served. If the proceeding being reviewed was recorded on videotape, the transcript must be filed by the transcriber with the clerk of the trial court within 60 45 days after the statement of arrangements is filed and all named court reporters are served. The party who caused a report of proceedings to be filed should at the time of filing the report of proceedings serve notice that the report of proceedings has been filed and file proof of the service on all parties.

(1) A party filing a brief must promptly forward a copy of the verbatim report of proceedings with a copy of the brief to the party with the right to file the next brief. If more than one party has the right to file the next brief, the parties must cooperate in the use of the report of proceedings. The party who files the last brief should return the copy of the report of proceedings to the party who paid for it

(2) If the transcript was computer-generated, one diskette or compact disk (using ASCII format with hard page returns) shall be filed with the original verbatim report of proceedings and a second diskette or compact disk shall be provided to the party who receives the verbatim report of proceedings. The party who files the last brief should return the diskette or compact disk to the party who paid for the verbatim report of proceedings.

(b) **Filing and Service of Verbatim Report of Proceedings.** If a verbatim report of proceedings cannot be completed within 60 45 days after the statement of arrangements is filed and served, the court reporter or video transcriber or authorized person shall, no later than 10 days before the report of proceedings is due to be filed, submit an affidavit to the party who ordered the report of proceedings stating the reasons for the delay. The party who requested the verbatim report of proceedings should move for an extension of time from the appellate court. The clerk will notify the parties of the action taken on the motion. When the court reporter or video transcriber or authorized person files the verbatim report of proceedings, a copy shall be provided to the party who arranged for transcription and either the reporter or video transcriber or authorized person shall serve and file

MISC.

notice of the filing on all other parties and the appellate court. The notice of filing served on the appellate court shall include a declaration that (1) the transcript was computer generated and an ASCII diskette or compact disk was filed or (2) the transcript was not computer generated. Failure to timely file the verbatim report of proceedings and notice of service may subject the court reporter or video transcriber or authorized person to sanctions as provided in rule 18.9.

(c) - (d) Unchanged.

Form 15A [New]

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON DIVISION _____

_____) No.
_____)
v. _____) NOTICE OF FILING VERBATIM
_____) REPORT OF PROCEEDINGS
_____) (RAP 9.5)

DECLARATION

I, ___ (name) ___, court reporter/transcriber, filed the verbatim report of proceedings for 20___, and provided a copy to the party who arranged for transcription.

CERTIFICATE OF SERVICE

I certify that on the ___ day of _____, 20___, I caused a true and correct copy of this Notice to be served on the following in the manner indicated below:

- () U.S. Mail
() Hand Delivery
() _____
() U.S. Mail
() Hand Delivery
() _____
() U.S. Mail
() Hand Delivery
() _____

By: _____

GR 9(d) Cover Sheet

Proposal to Amend RAP 9.6

Concerning Time for Filing and Service of Clerk's Papers

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: Rule 9.6 states that the party seeking review should file a designation of clerk's papers within 15 days after the notice of appeal is filed or discretionary review is granted.

The proposal is to extend the filing time to 30 days. Often trial counsel files the notice of appeal and appellate counsel is not immediately assigned. It is not uncommon in a criminal case for the attorney to receive notice of an appointment after the expiration of the due date for the designation of clerk's papers. This proposed change recognizes current practice and is intended to reduce the number of requests for extension of time to file the designation.

This proposed change is a companion to two other recommendations for amendments to Rules 9.2 (time for filing the statement of arrangements) and 9.5 (time for filing the verbatim report of proceedings). The purpose of the three recommendations is to set the same due date (30 days after the filing of the notice of appeal) for both the statement of arrangements and the designation of clerk's papers and to extend the period allowed to file the verbatim report of proceedings from 45 to 60 days after filing the statement of arrangements. Under both the current rules and the proposed changes the verbatim report of proceedings is due 90 days from the filing of the notice of appeal. Therefore, the proposals do not extend the overall time allowed for the preparation of the record. The chart below depicts the current and proposed time frames for filing the designation of clerk's papers, the statement of arrangements and the verbatim report of proceedings.

Currently the appellant has 45 days to file the statement of arrangements and only 15 to file the designation of clerk's papers. As indicated in the GR 9 cover sheet for Rule 9.2, appellants should not need 45 days to make arrangements for transcript to be prepared. It is more equitable to reduce that time to 30 days and increase the time for the reporter to prepare the transcript from 45 to 60 days, retaining the current requirement to file the transcript 90 days from the filing of the notice of appeal. Also, as indicated above, 15 days is often not sufficient time to file the designation of clerk's papers. Allowing 30 days to file both the statement of arrangements and the designation of clerks papers provides the appellant with sufficient time to review the trial court record and determine what to request in each document.

This change should assist counsel by allowing for additional time for filing of the designation of clerk's papers. Court reporters will also benefit from this change since additional time is allowed for the filing of the verbatim report of proceedings.

Time Frames Under Existing Rules 9.2, 9.5, and 9.6

Table with 4 columns: Notice of Appeal Filed or Notice of Discretionary Review Granted, Designation of Clerk's Papers, Statement of Arrangements, Verbatim Report of Proceedings. Includes time frames: 15 days, 45 days, 45 days, 90 days total.

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Time Frames Under Proposed Changes to Rules 9.2, 9.5, and 9.6

Notice of Appeal Filed or Notice of Discretionary Review Granted	Designation of Clerk's Papers	Statement of Arrangements	Verbatim Report of Proceedings
30 days		30 days	60 days
90 days total			

RULE OF APPELLATE PROCEDURE 9.6

DESIGNATION OF CLERK'S PAPERS AND EXHIBITS

(a) **Generally.** The party seeking review should, within 30 ~~45~~ days after the notice of appeal is filed or discretionary review is granted, serve on all other parties and file with the trial court clerk and the appellate court clerk a designation of those clerk's papers and exhibits the party wants the trial court clerk to transmit to the appellate court. Any party may supplement the designation of clerk's papers and exhibits prior to or with the filing of the party's last brief. Thereafter, a party may supplement the designation only by order of the appellate court, upon motion. Each party is encouraged to designate only clerk's papers and exhibits needed to review the issues presented to the appellate court.

(b) - (c) Unchanged.

GR 9(d) Cover Sheet

Proposal to Amend RAP 10.1

Concerning Briefs Which May Be Filed/Pro Se Supplemental Brief in Criminal Case

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: Rule 10.1(d) governs the filing of pro se supplemental briefs. The proposed change deletes section (d). A new rule 10.10 is added to allow a defendant/appellant to provide a statement of additional grounds for review. Currently, an appellant/defendant may file a pro se supplemental brief in any criminal appeal. It appears that Minnesota is the only other jurisdiction that has an appellate rule comparable to Washington State's RAP 10.1(d). Some jurisdictions do not have any rules dealing with pro se supplemental briefs, while other jurisdictions allow such briefs with the permission of the court, and still others prohibit them altogether where the defendant is represented by counsel.

These changes are proposed to speed the appellate processing of criminal cases and, possibly, reduce the cost of these cases. Currently, many defendant/appellants file intentions to file a pro se supplemental brief but actually never file the briefs. In 1999, there were 488 notices of intent filed and 239 briefs actually filed. The number of days from filing to opinion was 128 days longer for those cases in which a notice of intent to file a pro se supplemental brief was filed. The proposed change to this rule, along with new Rule 10.10,

attempts to lessen the delay for these cases while preserving the essential purpose served by pro se supplemental briefs. Costs may be lessened somewhat, as a defendant/appellant must now request a transcript rather than having it provided routinely.

Section (f) lists the types of briefs to be filed in cases involving cross review. This section was amended in 1996 and the proposed amendment corrects a mistake from the 1996 changes. Under (f)(4), the brief to be filed should read "reply brief of cross appellant" rather than "cross respondent." A number of attorneys have called the court to report this mistake and the proposed change corrects the problem.

RULE OF APPELLATE PROCEDURE 10.1

BRIEFS WHICH MAY BE FILED

(a) - (c) Unchanged.

~~(d) **Pro Se Supplemental Brief in Criminal Case.** A defendant/appellant in a review of a criminal case may file a brief supplementing the brief filed by the defendant/appellant's counsel, but only if the defendant/appellant files a notice of intention to file a pro se supplemental brief. The court will not accept a pro se supplemental brief from a defendant/respondent. The notice of intent should be filed within 30 days after the defendant/appellant has received the brief prepared by defendant/appellant's counsel, a notice from the clerk of the appellate court advising the defendant/appellant of the substance of this section, rules 10.2(e), and 10.3(d), and a form of notice of intention to file a pro se supplemental brief. The clerk will advise all parties if the defendant/appellant files the notice of intention. If a defendant/appellant files a notice of intent to file a pro se supplemental brief, the appellate court will provide a copy of the verbatim report of proceedings to the defendant/appellant. The cost for reproducing the verbatim report of proceedings for an indigent defendant/appellant will be reimbursed to the appellate court from the appellate indigent defense fund. [Reserved; see rule 10.10]~~

(e) Unchanged.

(f) **Briefs in Cases Involving Cross Review.** If a cross review is filed, the party first filing a notice of appeal or notice of discretionary review is deemed the appellant or petitioner for the purpose of this title, unless the parties otherwise agree or the appellate court otherwise orders. The following briefs may be filed in cases involving cross review: (1) brief of appellant, (2) brief of respondent/cross appellant, (3) reply brief of appellant/cross respondent, and (4) reply brief of cross ~~respondent~~ appellant.

(g) - (h) Unchanged.

GR 9(d) Cover Sheet

Proposal to Amend RAP 10.2

Concerning Time for Filing Briefs

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: Rule 10.2 governs the time for filing of briefs. In section (d), the time for filing the reply brief refers to "oral

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argument." The proposed change deletes the reference to oral argument, since a significant number of cases are decided without oral argument. For cases that are decided without oral argument or that the court wishes to handle on an expedited schedule, the court can order the reply brief to be filed in fewer than the 30 days. The rule currently requires reply brief to be filed at least 14 days prior to oral argument if oral argument is set fewer than 30 days after the respondent's brief is filed.

Section (e) is deleted since the change to rule 10.1 deletes the ability of a defendant/appellant to file a pro se supplemental brief. Proposed new Rule 10.9 allows the defendant/appellant to file a statement of additional grounds for review.

**RULE OF APPELLATE PROCEDURE 10.2
TIME FOR FILING BRIEFS**

(a) - (c) Unchanged.

(d) **Reply Brief.** A reply brief of an appellant or petitioner should be filed with the appellate court within 30 days after service of the brief of respondent unless oral argument is set fewer than 30 days after the brief of respondent is filed. In that instance, the reply brief must be filed at least 14 days before oral argument the court orders otherwise.

~~(e) **Pro Se Supplemental Brief in Criminal Case.** A pro se supplemental brief in a criminal case should be filed with the appellate court within 60 days after the defendant/appellant has been served with a verbatim report of proceedings. [Reserved; see rule 10.10.]~~

(f) - (i) Unchanged.

GR 9(d) Cover Sheet

**Proposal to Amend RAP 10.3
Concerning Content of Briefs**

**Submitted by the Board of Governors of the Washington
State Bar Association**

Purpose: Rule 10.3 outlines what is to be included in briefs. Section (d) refers to pro se supplemental briefs in a criminal case. The proposed change deletes this section consistent with changes also recommended in rules 10.1 and 10.2 and the addition of proposed new rule 10.9.

**RULE OF APPELLATE PROCEDURE 10.3
CONTENT OF BRIEF**

(a) - (c) Unchanged.

~~(d) **Pro Se Supplemental Brief in Criminal Case.** The pro se supplemental brief in a criminal case should be limited to those matters which defendant/appellant believes have not been adequately covered by the brief filed by the defendant/appellant's counsel. [Reserved; see rule 10.10.]~~

(e) - (h) Unchanged.

GR 9(d) Cover Sheet

**Proposal to Amend RAP 10.4
Concerning Font and Printing Requirements for Briefs**

**Submitted by the Board of Governors of the Washington
State Bar Association**

Purpose: Rule 10.4 lists the requirements for preparing and filing briefs. Sections (2) and (3) specify the requirements for the typeface, including a requirement that the typeface "appear in print as 12 point or larger type with no more than 10 characters per inch." Only one 12 point font has no more than 10 characters per inch, and most briefs are submitted in violation of this requirement. Because of this limiting factor, it is proposed to delete the requirement to have no more than 10 characters per inch. The rule still will require typeface in 12 point or larger.

A second proposed change to section (a) adds that the brief may not contain any tabs, colored pages or binding and that it should be stapled in the upper left-hand corner. This requirement is necessary because the briefs are reproduced by the court and tabs, colored pages and binding require significant preparation prior to reproduction.

**RULE OF APPELLATE PROCEDURE 10.4
PREPARATION AND FILING OF BRIEF BY PARTY**

(a) **Typing or Printing Brief.** Briefs shall conform to the following requirements:

(1) An original and one legible, clean, and reproducible copy of the brief must be filed with the appellate court. The original brief should be printed or typed in black on 20-pound substance 8-1/2- by 11-inch white paper. Margins should be at least 2 inches on the left side and 1-1/2 inches on the right side and on the top and bottom of each page. The brief shall not contain any tabs, colored pages, or binding and should be stapled in the left-hand upper corner.

(2) The text of any brief typed or printed in a proportionally spaced typeface must appear double spaced and in print as 12 point or larger type in the following fonts or their equivalent: Times New Roman, Courier, CG Times, Arial, or in typewriter fonts, pica or elite with no more than 10 characters per inch and double spaced. The same typeface and print size should be standard throughout the brief, except that footnotes may appear in print as 10 point or larger type and be the equivalent of single spaced. Quotations may be the equivalent of single spaced. Except for material in an appendix, the typewritten or printed material in the brief shall not be reduced or condensed by photographic or other means.

~~(3) The text of any brief typed or printed in a mono-spaced typeface shall be done in pica type or the equivalent at no more than 10 characters per inch. The lines must be double spaced. Quotations and footnotes may be single spaced. Except for material in an appendix, the typewritten or printed material in the brief shall not be reduced or condensed by photographic or other means.~~

(b) - (h) Unchanged.

 GR 9(d) Cover Sheet

Proposal to Amend RAP 10.5
Concerning Distribution and Service of Briefs by Clerk

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: Rule 10.5 governs reproduction and service of briefs by the clerk. Included in section (b) is language that "the time for filing the next brief shall run from the time the preceding brief is served." The proposed amendment deletes this language since it is not part of the subject covered in this rule. The time for filing briefs is included in rule 10.2.

The proposed change to section (c) conforms the rule to proposed new rule 10.9 on Statement of Additional Grounds for Review.

**RULE OF APPELLATE PROCEDURE 10.5
REPRODUCTION AND SERVICE OF BRIEFS BY CLERK**

(a) Unchanged.

(b) **Distribution of Brief.** A party filing a brief must serve it in accordance with rules 10.2(h) and 18.5(a). ~~The time for filing the next brief shall run from the time the preceding brief is served.~~ The state law librarian shall determine how many copies of briefs from the Supreme Court and the Court of Appeals are to be transmitted to the State Law Library. The briefs will be transmitted by the clerks and provided at no cost to the State Law Library.

(c) **Service and Notice to Appellant in Criminal Case when Defendant is Appellant.** In a criminal case, the clerk will, at the time of filing of defendant/appellant's brief, serve advise the defendant/appellant with a notice and form as provided in of the provisions of rule 10.1(d) 10.10.

 GR 9(d) Cover Sheet

Proposal to Amend RAP 10.7
Concerning Submission of Improper Briefs

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: Rule 10.7 requires briefs to comply with the requirements in Rules 10.3 and 10.4 and lists remedies available to the court and parties when a brief is not in compliance. The proposed change requires a brief to comply with all rules in Title 10. The change is needed because there are other rules in Title 10 addition to 10.3 and 10.4 that list requirements for briefs. Parties need to be put on notice that briefs are subject to all the rules.

**RULE OF APPELLATE PROCEDURE 10.7
SUBMISSION OF IMPROPER BRIEF**

If a party submits a brief ~~which that~~ fails to comply with the requirements ~~for content, style, legibility, and length provided by rules 10.3 and 10.4~~ of Title 10, the appellate court,

on its own initiative or on the motion of a party, may (1) order the brief returned for correction or replacement within a specified time, (2) order the brief stricken from the files with leave to file a new brief within a specified time, or (3) accept the brief. The appellate court will ordinarily impose sanctions on a party or counsel for a party who files a brief ~~which~~ that fails to comply with these rules.

 GR 9(d) Cover Sheet

Proposal to Amend RAP 10.8
Concerning Reference to Additional Authorities

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: This proposed amendment would allow a party, or amicus curiae, to file a statement of additional authorities, without argument. The Committee recommended no change to the "without argument" provision, but did believe that it would assist the court if the rule provided that the statement "should identify the issue for which the authority is offered."

**RULE OF APPELLATE PROCEDURE 10.8
ADDITIONAL AUTHORITIES**

A party or amicus curiae may file a statement of additional authorities. The statement should not contain without argument, but should identify the issue for which each authority is offered. The statement must be served and filed prior to the filing of the decision on the merits or, if there is a motion for reconsideration, prior to the filing of the decision on the motion.

 GR 9(d) Cover Sheet

Proposal to Adopt a New RAP 10.9
Concerning "Corresponding" Briefs (Submitted on CD-ROM)

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: This proposed new rule would "allow and encourage" a party to file a "corresponding brief" on CD-ROM, as a supplement to, rather than as a replacement for, the traditional printed brief. Such briefs, especially if they are "hyperlinked," would provide the appellate courts and the parties with a powerful tool for arguing and deciding cases. (Hyperlinked briefs contain textual links to the report of proceedings, clerk's papers, and citations of authority.) They can also be much more convenient to use than printed materials, lessening the court's preparation time.

The parties want, or should want, to limit their briefs to factual statements supported by the record. They want the judges and their law clerks to be able to check the briefs of both sides against the record, and to easily verify whether

their legal arguments are supported by cited authorities. Particularly useful in cases with a lengthy report of proceedings or many documents, hyperlinked briefs allow the court to check the briefs against the record and the legal authorities without the inconvenience of searching through the transcript or the law library.

Because the appellate rules don't authorize these kind of briefs, parties desiring to use them may face an objection that the court shouldn't accept something for filing if it is not authorized by the rules. The proposed rule would eliminate that hurdle. The Committee was concerned, however, that a party lacking the resources of another party could be forced to choose between paying for something beyond its means and being at a disadvantage in the appellate process. As a policy matter, it was believed that any rule should neither force a party to prepare a corresponding brief nor be required to pay for it (i.e., have it imposed as a cost) after the fact. The rule was drafted to address these concerns:

Section (a) authorizes such briefs, subject to the conditions of the rule itself and any general orders that may be adopted by the Supreme Court or the divisions of the Court of Appeals. Section (d) provides that no party is required to submit a corresponding or hyperlinked brief, although the party is required to cooperate in good faith with another party seeking to do so by providing a computer readable version of its brief(s). Section (b)(1) requires that a CD-ROM with corresponding briefs must contain all briefs filed by all parties, and that if any of the briefs are hyperlinked, all must be. The submitting party must prepare, and bear the cost of, the hyperlinking. Section (f) makes clear that the costs of preparing and filing corresponding briefs are not recoverable as costs or attorney fees under the appellate rules. The Committee's thinking was that, absent a joint effort, the party desiring to submit a hyperlinked brief would make an informed economic decision on whether it was worth the cost to do so for all parties - including those with presumably lesser resources.

Other sections of the proposed rule address notice, format, and timing requirements. Section (b)(2) requires that corresponding briefs be accompanied by a statement setting forth instructions for viewing the briefs, including the minimum equipment necessary for viewing. Section (b)(3) requires an accompanying statement that is to verify the absence of computer viruses and list the software used to ensure that the CD-ROM briefs are virus-free.

RULE OF APPELLATE PROCEDURE 10.9

[Proposed New Rule]

CORRESPONDING BRIEFS ON CD-ROM

(a) Filing Corresponding Briefs on Compact Disc.

The submission of briefs and appendices on compact disc read-only memory (CD-ROM), referred to in this rule as corresponding briefs, filed as companions to printed briefs is allowed and encouraged, provided that the Supreme Court and each Division of the Court of Appeals may by general order vary any of the conditions of this Rule, and may prohibit the filing of corresponding briefs.

(b) **Conditions of filing.** A party may file corresponding briefs upon 14 days notice to all other parties and the court, subject to the following requirements:

(1) **Content.** A CD-ROM with corresponding briefs must contain all appellate briefs filed by all parties. Corresponding briefs must be identical in content to the paper briefs. Corresponding briefs may provide hypertext links to the report of proceedings and clerks papers and to materials cited in the briefs such as cases, statutes, treatises, law review articles, and similar authorities. If any briefs are hyperlinked, all briefs must be similarly hyperlinked by the submitting party.

(2) **Format.** Corresponding briefs must come fully equipped with their own viewing program; or, if the disk does not contain its own viewing program, the briefs must be viewable within a version of a program such as Adobe Acrobat, Microsoft Word Viewer, or WordPerfect that is downloadable from the Internet at no cost to the user.

(3) **Statement Concerning Instructions and Viruses.** Corresponding briefs must be accompanied by a statement, preferably within or attached to the packaging, that

(A) sets forth the instructions for viewing the briefs and the minimum equipment required for viewing; and

(B) verifies the absence of computer viruses and lists the software used to ensure that the briefs are virus-free.

(c) **Joint Submission.** Upon receiving notice of intent to file corresponding briefs, within 14 days any other party may file notice of intent to join in the submission. When one or more parties join in the submission, the parties shall cooperate in preparing a joint submission. Absent agreement to the contrary, each party shall arrange for preparation of its own briefs for the joint submission and the party first giving notice shall create the CD-ROM.

(d) **Non-Joint Submission.** No party is required to prepare a corresponding brief. A party shall cooperate in good faith in the preparation of corresponding briefs by expeditiously providing the submitting party with the party's brief or briefs in electronic format, if available.

(e) **Time of Filing.** Corresponding briefs must be filed no later than 60 days after the final reply brief. This rule does not affect deadlines for paper briefs. Additional time may be granted for completion of the corresponding briefs.

(f) **Costs.** The costs incurred in preparing and filing corresponding briefs are not recoverable costs under Title 14 or as attorney fees under Title 18 of these Rules.

GR 9(d) Cover Sheet

Proposal to Adopt a New RAP 10.10

Concerning Statement of Additional Grounds for Review

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: This is a new rule. It replaces sections in other rules (see RAP 10.1(d), 10.2(e), 10.3(d)) that currently provide a defendant/appellant with the opportunity to file a pro se supplemental brief in criminal appeals. Instead of filing a pro se supplemental brief, a defendant/appellant will be allowed to file a Statement of Additional Grounds for Review.

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Current Practice: Current rules allow an appellant in every criminal appeal to file a pro se supplemental brief to raise issues the appellant believes were not adequately addressed in counsel's brief. When counsel serves the appellant a copy of counsel's briefs, the clerks of the appellate courts serve him or her with a form notice of intent to file a pro se supplemental brief. Upon the return of the completed form, the clerks provide the appellant/defendant with a copy of the report of proceedings (expenses reimbursed by the Office of Public Defense, if appropriate), and the appellant/defendant then has 60 days within which to file a supplemental brief. Washington is the only state with such a provision.

The pro se supplemental brief helps satisfy the requirements of *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967), by allowing the defendant an opportunity to raise issues in appeals in which counsel requests permission to withdraw after concluding there are no arguable issues of merit. While infrequent, issues raised in the pro se by brief have resulted in reversal, remand or dismissal in *Anders* appeals and even in those in which counsel has not filed an *Anders* brief. In addition, the opportunity for the defendant/appellant to file a pro se supplemental brief is highly regarded by appellate defenders as providing an outlet for appellants to raise, pro se, issues that counsel is unwilling or unable to.

But pro se supplemental briefs are available in all criminal appeals, not just *Anders* appeals, and statistics indicate use of pro se supplemental briefs is increasing. There are several problems under the current rules. Statistics demonstrate that the mere filing of the notice of intent to file a pro se supplemental brief adds 5 1/2 to 7 1/2 months to the total length of time a criminal appeal is in the Court of Appeals, regardless of whether a pro se supplemental brief is filed (and they are filed in less than 50% of the cases in which the notice of intent is filed). Second, notwithstanding *State v. Romero*, 95 Wn. App. 323, 975 P.2d 564, review denied, 138 Wn.2d 1020 (1999) (no right to hybrid representation on appeal, and pro se appellant not entitled to act as counsel by filing motions, etc.), pro se supplemental briefing issues consume significant staff and docket time. Finally, the real value of pro se supplemental briefs is their identification of issues — not their citation to the record or to legal authorities.

Proposed Practice: Instead of granting blanket permission to file a pro se brief in every criminal appeal, the proposed rule, in effect, simply lets defendants/appellants write the court a letter explaining in their own words why the trial was unfair. If the statement is sufficiently specific and raises sufficiently meritorious issues, the court may, in its discretion, pursue the matter by resolving the issue, asking counsel to brief it, asking the State to respond, ordering production of the necessary record on its own initiative, etc. But the court would have no obligation whatsoever to respond to the statement point-by-point or to review the issues identified. The proposed rule has these advantages:

1) As in the case of the pro se supplemental briefs, defendants/appellants can use the process to raise those issues counsel has declined to raise.

2) Neither the court nor counsel is required to send the record to the defendants/appellants automatically. If the defendant/appellant specifically requests a transcript, counsel is to provide a copy, thus relieving court staff of this burden. (In an indigent appeal, counsel will be able to recover the costs from the Office of Public Defense, as does the court now; there is thus no net fiscal impact. It is possible that there will be some savings, because the report of proceedings will not be automatically provided as it is now when defendant/appellant files a notice of intent to file a pro se supplemental brief.)

3) Access to justice is granted, yet it remains clear that there is no right to file a pro se brief. As noted above, a transcript must be specifically requested from defendant/appellant's counsel.

4) Defendants/appellants may cite legal authority if they want to, and they may fashion their statement into "briefs," but it would no longer be necessary for them, as persons without legal training, to force their statements into a rigid and unfamiliar format.

5) Delay, which prejudices the interests of both the defendants/appellants and the State, would be reduced. Although the rule allows 30 days for defendants/appellants to file their statements, it should not take very long for to describe the particular events that rendered the proceeding unfair or the sentence erroneous.

6) Pro se submissions do not have to be permitted or rejected by anyone at the court before being considered. There will be no rule-based scrutiny for substance or content or specificity or conformity to format—except, perhaps, for legibility, length, and service upon counsel.

In Summary: The real value of pro se supplemental pleadings on appeal is the identification of issues not addressed by counsel. Citation to the record, formal citation to legal authority, and compliance with briefing format rules by untrained defendants/appellants are not necessary. Nor is a complete verbatim report of proceedings required in every case.

RULE OF APPELLATE PROCEDURE 10.10

[Proposed New Rule]

STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

(a) **Statement Permitted.** A defendant/appellant in a review of a criminal case may file a pro se statement of additional grounds for review to identify and discuss those matters which the defendant/appellant believes have not been adequately addressed by the brief filed by the defendant/appellant's counsel.

(b) **Length and Legibility.** The statement, which shall be limited to no more than 50 pages, may be submitted in handwriting so long as it is legible and can be reproduced by the clerk.

(c) **Citations; Identification of Errors.** Reference to the record and citation to authorities are not necessary or required, but the appellate court will not consider a defendant/appellant's statement of additional grounds for review if it does not inform the court of the nature and occurrence of alleged errors. Except as required in cases in which counsel files a motion to withdraw as set forth in RAP 18.3 (a)(2), the

appellate court is not obligated to search the record in support of claims made in a defendant/appellant's statement of additional grounds for review.

(d) **Time for Filing.** The statement of additional grounds for review should be filed within 30 days after service upon the defendant/appellant of the brief prepared by defendant/appellant's counsel and the mailing of a notice from the clerk of the appellate court advising the defendant/appellant of the substance of this rule. The clerk will advise all parties if the defendant/appellant files a statement of additional grounds for review.

(e) **Report of Proceedings.** If within 30 days after service of the brief prepared by defendant/appellant's counsel, defendant/appellant requests a copy of the verbatim report of proceedings from defendant/appellant's counsel, counsel should promptly serve a copy of the verbatim report of proceedings on the defendant/appellant and should file in the appellate court proof of such service. The pro se statement of additional grounds for review should then be filed within 30 days after service of the verbatim report of proceedings. The cost for producing and mailing the verbatim report of proceedings for an indigent defendant/appellant will be reimbursed to counsel from the Office of Public Defense in accordance with Title 15 of these rules.

(f) **Additional Briefing.** The appellate court may, in the exercise of its discretion, request additional briefing from counsel to address issues raised in the defendant/appellant's pro se statement.

Form 22

NOTICE TO APPELLANT RE:
STATEMENT OF ADDITIONAL
GROUND FOR REVIEW

COURT OF APPEALS DIVISION _____ OF THE STATE
OF WASHINGTON

Re: Case No. _____

Dear Appellant:

Your attorney has filed a proof of service indicating that you were mailed a copy of the opening brief in your appeal. If, after reviewing that brief, you believe there are additional grounds for review that were not included in your lawyer's brief, you may list those grounds in a Statement of Additional Grounds for Review. RAP 10.10.

Because the Statement of Additional Grounds for Review is not a brief, there is no required format and you may prepare it by hand. No citations to the record or legal authority are required, but you should sufficiently identify any alleged error so that the appellate court may consider your argument. A copy of the rule is enclosed for your reference.

Your Statement of Additional Grounds for Review must be sent to the Court within 30 days. It will be reviewed by the Court when your appeal is considered on the merits.

Very truly yours,

Clerk/Administrator

Form 23

FORM STATEMENT OF ADDITIONAL
GROUND FOR REVIEW

STATE OF WASHINGTON)
)
 Respondent,) No. _____
 v.)
 _____) STATEMENT OF ADDI-
(your name)) TIONAL GROUND FOR
) REVIEW
 Appellant.)

I, _____, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

Additional Ground 1

Additional Ground 2

If there are additional grounds, a brief summary is attached to this statement.

Date: _____ Signature: _____

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**Proposal to Amend RAP 11.4
Concerning Oral Argument**

**Submitted by the Board of Governors of the Washington
State Bar Association**

Purpose: Rule 11.4 addresses the time allowed and order of argument. The proposed change incorporates the provisions of Rules 11.5 and 11.6. The title of the rule is changed to reflect the addition of the new provisions. The amended rule will allow counsel to refer to one rule for all aspects concerning the conduct of argument.

**RULE OF APPELLATE PROCEDURE 11.4
TIME ALLOWED, AND ORDER, AND CONDUCT OF ARGUMENT**

(a) - (e) Unchanged.

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(f) Scope of Argument. The court ordinarily encourages oral argument. The opening argument should include a fair and concise statement of the facts of the case. Counsel need not argue all issues raised and argued in the briefs.

(g) Reading at Length. Counsel should avoid reading at length from briefs, records, or authorities.

(h) Duplication of Argument. Counsel should avoid duplication of argument, particularly if there are multiple parties arguing in support of the same issue.

(i) Use of Exhibits. Counsel may, to promote clarity of argument, use exhibits brought up as a part of the record and demonstrative or illustrative exhibits not a part of the record. Counsel should arrange, before court convenes, for the placement in the courtroom of exhibits and equipment to be used in oral argument.

(j) Submitting Case without Oral Argument. The appellate court may, on its own initiative or on motion of all parties, decide a case without oral argument.

GR 9(d) Cover Sheet

Proposal to Amend RAP 11.5
Concerning Oral Argument

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: This amendment is a companion to that for rule 11.4, which proposes to incorporate rule provisions concerning oral argument into a single rule. The text of the rule is deleted, but the rule number is retained as "reserved."

RULE 11.5

~~CONDUCT OF ARGUMENT [RESERVED]~~

~~(a) Scope of Argument.~~ The court ordinarily encourages oral argument. The opening argument should include a fair and concise statement of the facts of the case. Counsel need not argue all issues raised and argued in the briefs.

~~(b) Reading at Length.~~ Counsel should avoid reading at length from briefs, records, or authorities.

~~(c) Duplication of Argument.~~ Counsel should avoid duplication of argument, particularly if there are multiple parties arguing in support of the same issue.

~~(d) Use of Exhibits.~~ Counsel may, to promote clarity of argument, use exhibits brought up as a part of the record and demonstrative or illustrative exhibits not a part of the record. Counsel should arrange, before court convenes, for the placement in the courtroom of exhibits and equipment to be used in oral argument.

GR 9(d) Cover Sheet

Proposal to Amend RAP 11.6
Concerning Oral Argument

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: This amendment is a companion to that for rule 11.4, which proposes to incorporate rule provisions concerning oral argument into a single rule. The text of the rule is deleted, but the rule number is retained as "reserved."

RULE 11.6

~~SUBMITTING CASE WITHOUT ORAL ARGUMENT [RESERVED]~~

~~The appellate court may, on its own initiative or on motion of all parties, decide a case without oral argument.~~

GR 9(d) Cover Sheet

Proposal to Amend RAP 12.3
Concerning Motions to Publish

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: Rule 12.3 concerns the forms of decisions; section (e) discusses motions to publish, including a requirement that a motion must be filed within 20 days after the opinion has been filed. The proposed change relates to the content of motions to publish. Requirements for motions made by a person not a party are deleted and replaced with language requiring all motions to address specific criteria for determining whether or not an opinion should be published. The criteria include, in sections (e)(1) and (2), the current criteria for a motion made by a person not a party and, in sections (e)(3) through (6), the criteria contained in section (d) of the rule. Thus, the same criteria used by a panel of judges when deciding, under section (d), whether or not to publish an opinion will be used in ruling on a motion to publish with the addition of the two criteria relating to persons not a party to the case. Adopting this change will mean that there is a single set of criteria to be applied to any decision to publish an opinion.

The Committee added a requirement that the motion be served as well as filed, along with a provision that rule 17.4 on motions applies to motions to publish.

RULE OF APPELLATE PROCEDURE 12.3
FORMS OF DECISION

(a) - (d) Unchanged.

(e) Motion to Publish. A motion requesting the Court of Appeals to publish an opinion that had been ordered filed for public record should be served and filed within 20 days after the opinion has been filed. ~~If the motion is made by a person not a party, the~~ The motion must be supported by

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addressing the following criteria: include a statement of (1) if not a party, the applicant's interest and the person or group applicant represents; and (2) applicant's reasons for believing that publication is necessary; (3) whether the decision determines an unsettled or new question of law or constitutional principle; (4) whether the decision modifies, clarifies or reverses an established principle of law; (5) whether the decision is of general public interest or importance; or (6) whether the decision is in conflict with a prior opinion of the Court of Appeals. Rule 17.4 applies to motions to publish.

GR 9(d) Cover Sheet

**Proposal to Amend RAP 12.4
Concerning Motions for Reconsideration**

**Submitted by the Board of Governors of the Washington
State Bar Association**

Purpose: This rule covers the filing of motions for reconsideration of decisions terminating review. The proposed change is in section (h), where it states that a party may file only one motion for reconsideration, even if the appellate court modifies its decision or changes the language in the opinion rendered by the court. The proposed change clarifies that if the court withdraws its opinion, a party adversely affected by the subsequent opinion may file a motion for reconsideration. Adoption of this proposal will give parties an opportunity to file a second motion for reconsideration when an opinion has been substantively changed.

A few members of the Committee wondered whether a party's rights should depend on whether the appellate court uses the word "withdrawn" instead of "modified," but a majority believed that the proposed change was clearer and "cleaner," and that other formulations might result in an unacceptable lengthening of the appeals process.

**RULE OF APPELLATE PROCEDURE 12.4
MOTIONS FOR RECONSIDERATION OF DECISION TERMINATING REVIEW**

(a) - (g) Unchanged.

(h) Only One Motion Permitted. Each party may file only one motion for reconsideration, even if unless the appellate court modifies its decision or changes the language in the opinion rendered by the court withdraws its opinion and files a subsequent opinion. Any party adversely affected by the subsequent opinion may file a motion for reconsideration.

(i) Unchanged.

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**Proposal to Amend RAP 12.7
Concerning Finality of Decisions**

**Submitted by the Board of Governors of the Washington
State Bar Association**

Purpose: Rule 12.7(a) specifies when the Court of Appeals loses the power to change or modify its decision. The proposed change adds a third section to include cases where the court has not accepted review of a motion for discretionary review and has issued a certificate of finality. Once the certificate has been issued, the court no longer has the power to change or modify the decision to accept or reject review. Adoption of this change clarifies that authority.

**RULE OF APPELLATE PROCEDURE 12.7
FINALITY OF DECISION**

(a) Court of Appeals. The Court of Appeals loses the power to change or modify its decision (1) upon issuance of a mandate in accordance with rules 12.5, except when the mandate is recalled as provided in rule 12.9, or (2) upon acceptance by the Supreme Court of review of the decision of the Court of Appeals, or (3) upon issuance of a certificate of finality as provided in rule 12.5(e) and rule 16.15(e).

(b) - (d) Unchanged.

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**Proposal to Amend RAP 13.4
Concerning Discretionary Review of Decisions Terminating Review**

**Submitted by the Board of Governors of the Washington
State Bar Association**

Purpose: The amendment to section (a) adds denial of a timely motion to publish as a triggering point for filing a petition for discretionary review. If a party loses an appeal in the Court of Appeals, the decision to seek discretionary review may hinge upon whether the decision will be published. The party may believe that publication of the decision would create a bad precedent and wish to make a final attempt at avoiding that result. Other changes to this section are structural. The committee believed that in the average situation no motions are filed; thus, the part of the rule addressing this circumstance should come first.

The amendment to section (b) would make a conflict of decisions *within* a division of the Court of Appeals a ground for discretionary review, in addition to conflicts between divisions. In some respects, the former are more difficult for the practitioner than the latter. With a conflict *between* divisions, a lawyer can at least know the governing law depending on the county he or she is in. Given the lack of a mechanism for the Court of Appeals to harmonize decisions

between different panels, the committee believed sound public policy supported the amendment.

**RULE OF APPELLATE PROCEDURE 13.4
DISCRETIONARY REVIEW OF DECISION TERMINATING
REVIEW**

(a) How to Seek Review. A party seeking discretionary review by the Supreme Court of a Court of Appeals decision terminating review must file a petition for review or an answer to the petition which raises new issues. If no motion to publish or motion to reconsider all or part of the Court of Appeals decision is made, a petition for review must be filed within 30 days after the decision is filed. If such a motion is made, the The petition for review must be filed in the Court of Appeals within 30 days after an order is filed denying a timely motion ~~for to reconsideration or motion to publish~~ of all or any part of that decision. If the petition for review is filed prior to the Court of Appeals determination on the motion ~~for reconsideration to reconsider~~ or on a motion to publish, the petition will not be forwarded to the Supreme Court until the Court of Appeals files an order on all such motions. ~~If no motion for reconsideration of all or part of the Court of Appeals decision is made, a petition for review must be filed within 30 days after the decision is filed.~~ The first party to file a petition for review must, at the time the petition is filed, pay the statutory filing fee to the clerk of the Court of Appeals in which the petition is filed.

(b) Considerations Governing Acceptance of Review. A petition for review will be accepted by the Supreme Court only: (1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or (2) If the decision of the Court of Appeals is in conflict with a another ~~another division of~~ decision of the Court of Appeals; or (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

(c) - (i) Unchanged.

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**Proposal to Amend RAP 14.6
Concerning Awarding of Costs**

**Submitted by the Board of Governors of the Washington
State Bar Association**

Purpose: Rule 14.6 governs awards of costs. Section (c) requires the commissioner or clerk to award costs in the mandate or in a post-mandate ruling or order. The proposed change requires the commissioner or clerk to also award costs in a certificate of finality. The change is also paralleled in the proposed change to RAP 18.1(h). This change is proposed to conform to current practice. The change also puts personal restraint petitioners on notice that costs may be awarded. The change will provide some direction to county clerks regarding the action they need to take when they receive certificates of finality.

**RULE OF APPELLATE PROCEDURE 14.6
AWARD OF COSTS**

(a) - (b) Unchanged.

(c) Transmitting Costs. The commissioner or clerk will award costs in the mandate or the certificate of finality or in a post-mandate ruling or order. An award of costs may be enforced as part of the judgment in the trial court.

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**Proposal to Amend RAP 17.2
Concerning Who Decides a Motion**

**Submitted by the Board of Governors of the Washington
State Bar Association**

Purpose: Rule 17.2(a) lists the motions to be decided by a judge. The proposed change clarifies the requirement for a judge to decide a motion to recall a mandate. Often mandates are recalled because they were inadvertently issued. This generally occurs when a petition for review has been filed with the Supreme Court and the Court of Appeals is not served. Unaware that the case is being appealed, the Court of Appeals files the mandate and then must recall it upon learning that the case is still in the appellate process. This amendment will allow a commissioner or clerk to recall the mandate and will save judicial time.

The amendment is not intended to cover the situation where the appellate court wants to know if the trial court has complied with the appellate court's mandate. A judge will still decide this kind of motion.

**RULE OF APPELLATE PROCEDURE 17.2
WHO DECIDES A MOTION**

(a) Generally. The judges determine (1) a motion in a brief, (2) a motion to modify a ruling by a commissioner or the clerk, (3) a motion for reconsideration of a decision, (4) a motion to recall the mandate, except for a motion made to correct an inadvertently issued mandate, and (5) a motion to publish. All other motions may be determined initially by a commissioner or the clerk of the appellate court.

(b) - (c) Unchanged.

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**Proposal to Amend RAP 17.3
Concerning Contents of the Appendix in a Motion**

**Submitted by the Board of Governors of the Washington
State Bar Association**

Purpose: Rule 17.3(b) describes the content of a motion for discretionary review. Section (b)(8) lists items that *must* be in an appendix and items that *may* be included. The proposed change moves the relevant parts of the record from the optional list to the mandatory list. This change is required

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because the portions of the record that are relevant to the motion need to be before the court in order for it to review and decide the motion. The word "conformed" is deleted because the copies provided do not need to be conformed copies.

**RULE OF APPELLATE PROCEDURE 17.3
CONTENT OF MOTION**

(a) Unchanged.

(b) **Motion for Discretionary Review.** A motion for discretionary review should contain under appropriate headings and in the order here indicated:

(1) - (7) Unchanged.

(8) *Appendix.* An appendix containing a ~~conformed~~ copy of the decision which the party wants reviewed, ~~and a conformed~~ copy of any order granting or denying motions made with respect to that decision, and a copy of parts of the record relevant to the motion. In addition, the appendix may include copies of statutes and constitutional provisions relevant to the issues presented for review, ~~a conformed copy of parts of the record relevant to the motion,~~ and other material which would assist the court in determining whether the motion should be granted.

(c) Unchanged.

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**Proposal to Amend RAP 17.4
Concerning Answer and Reply to a Motion**

**Submitted by the Board of Governors of the Washington
State Bar Association**

Purpose: Rule 17.4 governs motion practice. Section (e) outlines the process for an answer and reply to a motion. The rule currently requires an answer to a motion to be served and filed at least 4 days prior to the day of hearing. The proposed change amends that requirement by inserting language "unless directed otherwise by the court." Because most motions are decided without a hearing, there is no scheduled hearing date to use to determine the due date for filing the answer. The amendment allows the court to establish a schedule. It reflects the practice in all divisions of the Court of Appeals.

**RULE OF APPELLATE PROCEDURE 17.4
FILING AND SERVICE OF MOTION - ANSWER TO MOTION**

(a) - (d) Unchanged.

(e) **Answer to Motion; Reply.** A person with a recognized interest in the subject matter of the motion may submit a written answer to the motion. If the motion is to be determined without oral argument, the court will set a date for the filing of the answer to the motion. ~~If the motion is set for oral argument, the answer to a motion~~ must be served and filed at least 4 days preceding the day of hearing. If service is by mail, the answering party must mail the answer at least 7 days before the day noted for hearing the motion. The answer to a motion within a brief may be made within the brief of the

answering party. The moving party may submit a written reply to the answer to the motion. If the motion is to be determined without oral argument, the court will set a date for the filing of a reply. ~~If the motion is set for oral argument, the A~~ reply to an answer must be served and filed by noon 2 days before the hearing.

(f) - (g) Unchanged.

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**Proposal to Amend RAP 18.1
Concerning Awards of Attorney Fees and Expenses**

**Submitted by the Board of Governors of the Washington
State Bar Association**

Purpose: Rule 18.1 governs attorney fees and expenses. Section (c) requires the Affidavit of Financial Need to be filed no later than 10 days prior to the time set for oral argument. The proposed change replaces "oral argument" with "hearing" to reflect the current practice of deciding cases without oral argument.

Section (e) outlines how a party answers an affidavit. The proposed change requires the party objecting to the request for fees and expenses to provide documentation containing the specific objections. The title of this section is changed to more accurately reflect the purpose of the section. This will provide the court with better information to use in the decision-making process.

Section (h) requires the clerk to include the award of attorney fees and expenses in the mandate or in a post-mandate ruling or order. The proposed change requires the clerk to also include the award of attorney fees and expenses in a certificate of finality. (The change is also paralleled in the proposed change to RAP 14.6(c).) This change is proposed to conform to current practice. The change also puts Personal Restraint Petitioners on notice that costs may be awarded. The change will provide some direction to county clerks regarding the action they need to take when they receive certificates of finality.

**RULE OF APPELLATE PROCEDURE 18.1
ATTORNEY FEES AND EXPENSES**

(a) - (b) Unchanged.

(c) **Affidavit of Financial Need.** In any action where applicable law mandates consideration of the financial resources of one or more parties regarding an award of attorney fees and expenses, each party must serve upon the other and file a financial affidavit no later than 10 days prior to the time date the case is set for oral argument hearing or submitted for consideration; however, in a motion on the merits pursuant to rule 18.14, each party must serve and file a financial affidavit along with its motion or response.

(d) Unchanged.

(e) **Answer Objection to Affidavit; Reply.** A party may ~~answer object to~~ a request for fees and expenses filed pursuant to section (d) by serving and filing an answer answering documents with appropriate documentation con-

taining specific objections to the requested fee. The response must be filed within 10 days after service of the affidavit upon the party. In a rule 18.14 proceeding, an answer to an affidavit of financial need may be served and filed at any time before oral argument. A party may reply to an answer by serving and filing the reply documents within 5 days after the service of the answer upon that party.

(f) - (g) Unchanged.

(h) **Transmitting Judgment on Award.** The clerk will include the award of attorney fees and expenses in the mandate, or the certificate of finality, or in a supplemental judgment. The award of fees and expenses may be enforced in the trial court.

(i) - (j) Unchanged.

GR 9(d) Cover Sheet

Proposal to Amend RAP 18.4 Concerning Disposition of Exhibits

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: The committee determined that this rule did not need two sections and redrafted it as a single sentence for improved brevity and clarity.

RULE OF APPELLATE PROCEDURE 18.4 DISPOSITION OF EXHIBITS

~~(a) If Further Proceedings Ordered.~~ If a case is returned to the trial court for further proceedings, exhibits in the custody of the appellate court will be returned to the trial court.

~~(b) When Case Is Mandated.*~~ When a case is mandated, pursuant to rule 12.5, or returned to the trial court for further proceedings, all exhibits in the custody of the appellate court will be returned to the trial court.

*Suggested title added by publisher [in West version of the rules].

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Proposal to Amend RAP 18.13 Concerning Accelerated Review of Juvenile Proceedings

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: Rule 18.13 provides for "accelerated review" of certain juvenile dispositions and termination of parental rights cases using a motion procedure in the Court of Appeals. Although such review proceedings have taken place *on the merits* for a number of years, the committee believed that there might still be some confusion about the rule. It thus proposed an amendment to section (a) adding the phrase "on the merits" after the words "shall be reviewed."

Section (e) sets forth the manner in which the Supreme Court will review a decision by the Court of Appeals on accelerated review that relates only to a juvenile offense, dependency or termination of parental rights disposition. The rule states that the process is governed by rule 13.5 (a), (b), and (c), which apply to discretionary review of an interlocutory decision. The proposed change adds rule 13.3(e) to the list of rules governing the Supreme Court review process. This change is required because rulings under 18.13 are typically made by commissioners and rule 13.3(e) contains provisions for review of decisions by commissioners or clerks. Rule 13.3(e) clarifies that rulings under 18.13 are not subject to review by the Supreme Court. A motion to modify must first be filed; a decision by the Court of Appeals on a motion to modify may then be subject to review by the Supreme Court under Rule 13.3.

(It should be noted, regarding the amendment to section (a), that the purpose statement to a 1991 amendment to this section stated "...it should be made clear that the decision 'on accelerated review' refers to the Court of Appeals decision on the merits...." 115 Wn.2d xvi (January 9, 1991))

Finally, the committee determined that a new section (g) should be added listing required attachments to the motion and response in dependency and termination of parental rights cases. Attaching the trial court's findings and conclusions, making assignments of error, and setting forth the appropriate standard of review will help the appellate court focus on the issues and render better decisions.

RULE OF APPELLATE PROCEDURE 18.13 ACCELERATED REVIEW OF DISPOSITIONS IN JUVENILE OFFENSE, JUVENILE DEPENDENCY AND TERMINATION OF PARENTAL RIGHTS PROCEEDINGS

(a) **Generally.** Dispositions in a juvenile offense proceeding beyond the standard range for such offenses, juvenile dependency and termination of parental rights, shall be reviewed on the merits by accelerated review as provided in this rule.

(b) - (d) Unchanged.

(e) **Supreme Court Review.** A decision by the Court of Appeals on accelerated review that relates only to a juvenile offense disposition, juvenile dependency and termination of parental rights is subject to review by the Supreme Court only by a motion for discretionary review on the terms and in the manner provided in rules 13.3(e) and 13.5 (a), (b) and (c).

(f) Unchanged.

(g) **Content of Motion and Response.** In addition to the requirements of section (b) of this rule, a party appealing from the disposition decision following a finding of dependency by a juvenile court or a decision depriving a person of all parental rights with respect to a child should (1) append to the motion a copy of the trial court's finding of facts and conclusions of law and copies of all dependency review orders; (2) identify by specific assignments of error those findings and conclusions challenged on appeal; and (3) set forth the applicable standard of governing review of those issues. Counsel for the respondent should respond to each assignment of error and should provide citations to the record for any evidence supporting the trial court's findings.

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Proposal to Amend RAP 18.15
Concerning Accelerated Review of Adult Sentencings

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: The amendment to section (a) is proposed for the same reason as that proposed for rule 18.13(a). Likewise, the amendment to section (g) is proposed for the same reason as that proposed for rule 18.13(e).

**RULE OF APPELLATE PROCEDURE 18.15
ACCELERATED REVIEW OF ADULT SENTENCINGS**

(a) **Generally.** A sentence which is beyond the standard range may be reviewed on the merits in the manner provided in the rules for other decisions or by accelerated review as provided in this rule.

(b) - (f) Unchanged.

(g) **Supreme Court Review.** A decision by the Court of Appeals on accelerated review that relates only to an adult sentence is subject to review by the Supreme Court only by a motion for discretionary review on the terms and in the manner provided in rules 13.3(e) and 13.5 (a), (b) and (c).

 GR 9(d) Cover Sheet

**Proposal to Amend RALJ 1.2
Concerning Application of Rules**

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: The amendment adds to this rule a reference to rule 10.3(c), which places restrictions on extensions of the time in which a party must file a notice of appeal.

Filing a notice of appeal within 30 days is a standard "deadline." Few circumstances warrant extension of this time, and all parties should be entitled to finality of judgment after 30 days.

The original RALJ rules contained a strict limitation on extensions of time to file a notice of appeal. In 1990, when several amendments to the RALJ were proposed and adopted, it appears that the provision restricting extensions of time for filing the notice was inadvertently omitted. Rule 10.3, adopted in 1998, restored the restriction; however, no cross-reference was inserted into rule 1.2. This proposal remedies that situation.

**RALJ 1.2
INTERPRETATION AND APPLICATION OF RULES**

(a) Unchanged.

(b) **Application of Rules.** Cases and issues will not be determined on the basis of compliance or noncompliance with these rules, except as provided in rules 10.2 and 10.3(c). A party's right to proceed further in an appeal may be condi-

tioned on compliance with the terms of a sanction order under rule 10.1.

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Proposal to Amend RALJ 6.4
Concerning Transmittal of Record on Review of Superior Court Decision Reviewing Decision of Court of Limited Jurisdiction

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: This proposed amendment provides that when a party seeks discretionary review of a superior court decision reviewing a decision of a court of limited jurisdiction, the original record of proceedings and transcript considered by the superior court is to be transmitted to the appellate court. The amendment is intended to obviate a practice that has occurred on at least some occasions whereby a superior court refused to transmit the original record and instead advised that it would have to make a copy. The rationale for this was that somehow the court of limited jurisdiction record had become a part of the superior court record.

On discretionary review, the Court of Appeals should have before it the record considered by the superior court, just as on petitions for review the Supreme Court has before it the record considered by the Court of Appeals.

See also the proposed amendment to RAP 9.1.

RALJ 6.4
TRANSMITTAL OF RECORD OF PROCEEDINGS ON DISCRETIONARY REVIEW AND RETURN OF RECORD OF PROCEEDINGS FOLLOWING TERMINATION OF APPEAL

When a party has filed a notice for discretionary review of the superior court decision, the record of proceedings and the transcript of the electronic record considered by the superior court on direct appeal shall be transmitted to the appellate court. Upon completion of the appeal and any subsequent proceedings for review by the Court of Appeals or Supreme Court, the superior court shall return to the court of limited jurisdiction the record of proceedings transmitted pursuant to RALJ 6.1(a). Transcripts provided pursuant to RALJ 6.3A shall not be returned to the court of limited jurisdiction.

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Proposal to Amend RALJ 9.2
Concerning Transmittal of Superior Court Decision to Court of Limited Jurisdiction

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: The proposed amendment would require the clerk of the superior court to notify the court of limited jurisdiction of the superior court's decision in a timely fashion.

Currently, the rule permits the clerk to remand the case *before* expiration of the time for filing a notice of appeal or notice for discretionary review in the Court of Appeals. The rule also contains no limit on the time for the superior court to remand the case *following* expiration of the time to seek review. Issuance of the mandate prematurely can substantially delay the appeal process. Untimely remand to the trial court can also delay final resolution of the case.

The proposal imposes reasonable time limits upon both circumstances.

RALJ 9.2

ENTRY OF DECISION AND ENFORCEMENT OF JUDGMENT

(a) Unchanged.

(b) Transmittal of Superior Court Mandate. The clerk of the superior court shall transmit written notification of the superior court's decision to the court of limited jurisdiction and to each party not earlier than 30 days nor later than 60 days from the filing of the decision in superior court, unless a party files a timely notice for discretionary review.

(c) - (e) Unchanged.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The brackets and enclosed material above occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 02-03-001
AGENDA
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed January 2, 2002, 4:11 p.m.]

The Department of Labor and Industries
Semiannual Rules Development Agenda (January 1, 2002 - June 30, 2002)

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
DIVISION: INSURANCE SERVICES						
Chapter 296-33 WAC	Attendant services.	Janice Deal (360) 902-5369	9/19/01	11/21/01	2/23/02	Proposal that will allow the crime victims' compensation program to continue addressing attendant-service benefits the same as they did before the adoption of WAC 296-20-303 Attendant services.
WAC 296-20-135	Conversion factors.	Tom Davis (360) 902-6687	12/19/01	2/20/02	4/17/02	Update the conversion factors used by the department for calculating reimbursement rates for most professional health care and anesthesia services.
WAC 296-23-220	Physical therapy.	Tom Davis (360) 902-6687	12/19/01	2/20/02	4/17/02	Update the maximum daily reimbursement level for physical therapy services so the department may, if necessary, give cost-of-living increases to affected providers.
WAC 296-23-220	Occupational therapy.	Tom Davis (360) 902-6687	12/19/01	2/20/02	4/17/02	Update the maximum daily reimbursement level for occupational therapy services so the department may, if necessary, give cost-of-living increases to affected providers.
Chapter 296-17 WAC	General reporting rules, classifications, audit and recordkeeping, rates and rating system for workers' compensation insurance.	Frank Romero (360) 902-4835	4/2002	9/2002	11/2002	The purpose of this rule making is to: <ul style="list-style-type: none"> • Repeal the administrative cap; • Add the definition of payment agreement; and • Modify and clarify other requirements relating to enrollment dates, faxed applications, and annual safety reports.

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WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
Chapter 296-17 WAC	Manual of general reporting rules, classifications, audit and recordkeeping, rates and rating system for workers' compensation insurance.	Ken Woehl (360) 902-4775	11/21/01	1/23/02	3/20/02	To amend drywall rules to clarify language and make rules easier to understand.
Chapter 296-14 WAC	Industrial insurance.	Valerie Grimm (360) 902-5005	6/20/01	2/2002	5/2002	This rule making will provide updates to mortality assumptions used to determine pension reserves and actuarial benefit reductions.
Chapter 296-14 WAC	Industrial insurance.	Valerie Grimm (360) 902-5005	10/3/01	2/2002	5/2002	This rule making will provide methods and factors included in the calculation of the worker's wage at the time of injury.
Chapter 296-14 WAC	Industrial insurance.	Valerie Grimm (360) 902-5005	5/2002	8/2002	11/2002	This rule making will provide further potential changes to pension benefit tables, including consideration of an adjusted discount factor, which reflects anticipated investment earnings of the pension reserves.
Chapter 296-20 WAC	Medical aid.	Gary Franklin, MD (360) 902-5020	9/19/01	3/2002	5/2002	This rule making will determine whether or not an individual's report of pain should be included in the permanent partial disability award.
WAC 296-20-02001	Medical aid rules—Penalties.	Gary Franklin, MD (360) 902-5020		Expedited rule making 2/15/02	5/15/02	The department may delete this section through the expedited rule making process. It simply refers the reader to chapter 51.48 RCW.
WAC 296-23-225	Specialty providers—Work hardening.	Gary Franklin, MD (360) 902-5020		Expedited rule making 2/15/02	5/15/02	This section pertains to work hardening services purchased by insurance services. This section is duplicated by WAC 296-23-235 Work hardening. For that reason, one will be deleted and there will be no impact on the purchasing of these services.
WAC 296-23-170, 296-23-175, 296-23-185	Specialty providers.	Gary Franklin, MD (360) 902-5020		Expedited rule making 2/15/02	5/15/02	Repeal sections for duplication.
Chapter 296-19A WAC	Vocational rehabilitation.	Roy Plaeger-Brockway (360) 902-5052	12/19/01	To be determined	To be determined	To make technical corrections and modify problem areas in the current rule.
DIVISION: SPECIALTY COMPLIANCE SERVICES						
Chapter 296-127 WAC	Prevailing wage.	Rich Ervin (360) 902-5310 Josh Swanson (360) 902-6411	7/19/00	To be determined	To be determined	The purpose of this rule making is to repeal WAC 296-127-018 Coverage and exemptions of workers involved in the production and delivery of gravel, concrete, asphalt, or similar materials.

MISC.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
Chapter 296-150M WAC	Manufactured homes.	Josh Swanson (360) 902-6411	6/20/01	10/3/01	1/4/02	The purpose of this rule making is to: <ul style="list-style-type: none"> • Adopt the emergency rules that are in effect (see WSR 01-08-010); • Make changes resulting from the enactment of chapter 335, Laws of 2001 (ESSB 5703); and • Make other clarifying and housekeeping changes.
Chapter 296-200A WAC	Contractor certificate of registration renewals—Security—Insurance.	Pete Schmidt (360) 902-5571 Josh Swanson (360) 902-6411	6/20/01	1/23/02	3/26/02	The purpose of this rule making is to: <ul style="list-style-type: none"> • Make changes resulting from the enactment of chapter 159, Laws of 2001 (SSB 5101); • Review the rules for possible substantive changes; and • Make clarifying and housekeeping changes.
Chapters 296-150C, 296-150F, 296-150M, 296-150P, 296-150R, 296-150T, 296-150V, 296-96, 296-200A, 296-46A, 296-401B, 296-104, 296-400A, 296-200A, and 296-400A [296-402A] WAC	All of the Washington administrative codes for factory assembled structures; Safety regulations and fees for all elevators, dumbwaiters, escalators and other conveyances; Contractor certificate of registration renewals—Security—Insurance; Safety standards—Installing electric wires and Equipment—Administrative rules; Journeyman electricians—Certification of competency; Board of boiler rules—Substantive; and Certification of competency for journeyman plumbers.	Josh Swanson (360) 902-6411	1/2/02	4/3/02	5/28/02	These rules will be reviewed for possible fee adjustments.
Chapter 296-400A WAC	Certification of competency for journeyman plumbers.	Pete Schmidt (360) 902-5571 Josh Swanson (360) 902-6411	6/20/01	2/20/02	4/28/02	The purpose of this rule making is to: <ul style="list-style-type: none"> • Make changes resulting from the enactment of chapter 281, Laws of 2001 (ESHB 2172); • Review the rules for possible substantive changes; and • Make clarifying and housekeeping changes.

MISC.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
Chapters 296-402A and 296-403 WAC	Electrical evaluation/certification laboratory accreditation and Amusement rides or structures.	Ron Fuller (360) 902-5249 Josh Swanson (360) 902-6411	7/18/01	1/2/02	2/9/02	The purpose of this rule making is to: <ul style="list-style-type: none"> • Make substantive changes to the carnival rules with the assistance of an advisory committee; and • Incorporate a policy in order to create a regulatory mechanism to address equipment that is approved by an accredited testing laboratory but may be unsafe and dangerous.
Chapters 296-125, 296-126, 296-128, 296-131, and 296-133 WAC	Nonagricultural employment of minors; Standards of labor for the protection of the safety, health and welfare of employees for all occupations subject to chapter 49.12 RCW; Minimum wages; Agricultural employment standards; and Procedural rules supplementary to the Health Care Activities Labor Relations Act, chapter 156, Laws of 1972 ex. sess.	Rich Ervin (360) 902-5310 Josh Swanson (360) 902-6411	To be determined	To be determined	To be determined	Rules may be reviewed for amendments in order to incorporate necessary policy into rule.
Chapter 296-125 WAC	Nonagricultural employment of minors.	Rich Ervin (360) 902-5310 Josh Swanson (360) 902-6411	9/19/01	To be determined	To be determined	Rules are being reviewed for possible changes to ensure conformity with federal laws pertaining to employment of minors where those laws are more restrictive.
Chapter 296-127 WAC	Prevailing wage.	Rich Ervin (360) 902-5310 Josh Swanson (360) 902-6411	7/19/00	To be determined	To be determined	The purpose of this rule making is to: <ul style="list-style-type: none"> • Make substantive changes to the scope of work description rules that were adopted July 19, 2000 (WSR 00-15-077) with the assistance of an advisory committee. Clear rule-writing principles will be applied to these rules.
Chapter 296-128 WAC	Minimum wages.	Rich Ervin (360) 902-5310 Josh Swanson (360) 902-6411	12/5/01	1/23/02	2/28/02	Rules are necessary to clarify the requirements for salary basis pay as a result of a Washington State Supreme Court decision (Drinkwitz v. Alliant Techsystems, Inc., 140 Wn. 2d 291 (2000)).
Chapters 296-46A and 296-401B WAC	Safety standards— Installing electric wires and equipment— Administrative rules and Certification of competency for journeyman electricians.	Ron Fuller (360) 902-5249 Josh Swanson (360) 902-6411	7/18/01	To be determined	To be determined	The purpose of this rule making is to: <ul style="list-style-type: none"> • Review the rules for possible changes and to adopt the latest edition of the National Electrical Code.

MISC.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
Chapter 296-96 WAC	Safety regulations and fees for all elevators, dumbwaiters, escalators and other conveyances.	Josh Swanson (360) 902-6411	To be determined	To be determined	To be determined	The purpose of this rule making is to: <ul style="list-style-type: none"> Make substantive changes to the elevator rules that were adopted on 12/22/00 (see WSR 01-02-026) with the assistance of an advisory committee.
Chapter 296-104 WAC	Board of boiler rules—Substantive.	Robert Marvin (360) 902-5270 Josh Swanson (360) 902-6411	4/17/02	8/7/02	11/1/02	These rules will be reviewed by the Board of Boiler Rules for possible changes.
DIVISION: WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT						
Chapter 296-24 WAC Chapter 296-62 WAC	General safety and health standards. General occupational health standards.	Cindy Ireland (360) 902-5522 Sally Elliott (360) 902-5484	4/26/00	4/02	6/02	To adopt new federal OSHA (Occupational Safety and Health Administration) requirements relating to dip-tanks and rewrite the standard in the new plain language and user-friendly format.
Chapter 296-24 WAC	General safety and health standards.	Ken Lewis (360) 902-4568 Sally Elliott (360) 902-5484	2/21/01	5/22/02	7/02	To revise and adopt requirements relating to machine guarding, while rewriting the standard in the new plain language and user-friendly format.
Chapter 296-24 WAC	General safety and health standards.	Kim Rhoads (360) 902-5008 Sally Elliott (360) 902-5484	2/02	3/02	6/02	To revise and adopt requirements relating to late night retail, while rewriting the standard in the new plain language and user-friendly format.
Chapter 296-28 WAC	Clearance rules—Railroads in private yards and plants.	Kim Rhoads (360) 902-5008 Sally Elliott (360) 902-5484	8/30/00	2/02	4/02	To review requirements for possible amendments and rewrite the standard in the new plain language and user-friendly format.
Chapter 296-45 WAC	Safety standards for electrical workers.	Steve Vik (360) 902-5516 Sally Elliott (360) 902-5485	12/19/01	2/6/02	5/1/02	Clarify the two-man rule in the electrical standard.
Chapter 296-52 WAC	Safety standards for the possession and handling of explosives.	Sally Elliott (360) 902-5484	10/19/99	8/1/01	1/23/02	To review for possible updates to the blasting requirements with the assistance of an advisory committee.
Chapter 296-62 WAC	General occupational health standards.	Steve Vik (360) 902-5516 Sally Elliott (360) 902-5484	1/02	3/02	6/02	To revise and adopt requirements relating to chemical hazard control, while rewriting the standard in the new plain language and user-friendly format.
Chapter 296-62 WAC	General occupational health standards.	Jim Hughes (360) 902-4504 Sally Elliott (360) 902-5484	4/26/00	12/31/01	4/17/02	To review for possible updates to Part R for requirements relating to emergency response, while rewriting the standard in the new plain language and user-friendly format.
Chapter 296-62 WAC	General occupational health standards.	Jim Hughes (360) 902-4504 Sally Elliott (360) 902-5484	4/26/00	To be determined	To be determined	To review for possible updates to Part P for requirements relating to hazardous waste operations and environmental controls, while rewriting the standard in the new plain language and user-friendly format.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
Chapter 296-62 WAC	General occupational health standards.	Kim Rhoads (360) 902-5008 Sally Elliott (360) 902-5484	2/02	3/02	6/02	To revise and adopt requirements relating to manufacturers importers and distributors hazard communication, while rewriting the standard in the new plain language and user-friendly format.
Chapter 296-78 WAC	Safety standards for sawmills and wood-working operations.	Jim Hughes (360) 902-4504 Sally Elliott (360) 902-5484		Expedited rule making 10/24/01	1/23/02	To adopt rules that are at-least-as-effective-as OSHA.
Chapter 296-155 WAC	Safety standards for construction work.	Steve Vik (360) 902-5516 Sally Elliott (360) 902-5484	1/17/00	1/23/02	5/1/02	To review for possible updates to Part C for requirements relating to ground personnel exposed to motor vehicles on construction sites.
Chapter 296-155 WAC	Safety standards for construction work.	Jim Hughes (360) 902-4504 Sally Elliott (360) 902-5484	10/24/01	2/6/02	5/1/02	To adopt new federal OSHA (Occupational Safety and Health Administration) requirements relating to steel erections.
Chapter 296-800 WAC	Safety and health core rules.	Cindy Ireland (360) 902-5522 Sally Elliott (360) 902-5484		Expedited rule making 1/23/02	4/02	We will adopt minor changes to the safety and health core rules that were overlooked in the original adoption.
Chapter 296-24 WAC Chapter 296-32 WAC Chapter 296-36 WAC Chapter 296-37 WAC	General safety and health standards. Safety standards for telecommunications. Safety standards—Compressed air work. Safety standards for commercial diving operations.	Steve Vik (360) 902-5516 Sally Elliott (360) 902-5484	9/20/00	2/6/02	4/17/02	To adopt federal miscellaneous OSHA (Occupational Safety and Health Administration) requirements to be as-effective-as the federal final rules.
Chapter 296-45 WAC Chapter 296-54 WAC Chapter 296-56 WAC Chapter 296-62 WAC Chapter 296-67 WAC Chapter 296-78 WAC	Safety standards for electrical workers. Safety standards—Logging operations. Safety standards for longshore, stevedore and related waterfront operations. General occupational health standards. Safety standards for process safety management of highly hazardous chemicals. Safety standards for sawmills and wood-working operations.	Steve Vik (360) 902-5516 Sally Elliott (360) 902-5484	9/20/00	2/6/02	4/17/02	To adopt federal miscellaneous OSHA (Occupational Safety and Health Administration) requirements to be as effective as the federal final rules.
Chapter 296-79 WAC Chapter 296-99 WAC Chapter 296-155 WAC	Safety standards for pulp, paper, and paper-board mills and converters. Safety standards for grain handling facilities. Safety standards for construction work.	Steve Vik (360) 902-5516 Sally Elliott (360) 902-5484	9/20/00	2/6/02	4/17/02	To adopt federal miscellaneous OSHA (Occupational Safety and Health Administration) requirements to be as-effective-as the federal final rules.

MISC.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
Chapter 296-304 WAC	Safety standards for ship repairing, shipbuilding and shipbreaking.					
Chapter 296-307 WAC	Safety standards for agriculture.					

Christine Swanson
Legislative and Governmental
Affairs Office

WSR 02-03-003

AGENDA

DEPARTMENT OF CORRECTIONS

[Filed January 3, 2002, 10:30 a.m.]

Following is the Department of Corrections' semiannual rule development agenda for publication in the Washington State Register pursuant to RCW 34.05.314.

There may be addition rule-making activity not on the agenda as conditions warrant.

DEPARTMENT OF CORRECTIONS
RULE DEVELOPMENT CALENDAR
January - June 30, 2002

WAC Chapter or Section	Purpose
Chapter 137-10 WAC	Housekeeping amendments.
Chapter 137-09 WAC	Public disclosure - revise policies and procedures for disclosure of public records.
Chapter 137-28 WAC	Prisons - discipline.
Chapter 137-48 WAC	Offender mail.
Chapter 137-70 WAC	Reimbursement for criminal justice costs and contingency plan expenses.
Chapter 137-75 WAC	Jail and medical cost reimbursement to cities and counties.
Chapter 137-57 WAC	Siting of community residential programs.
Chapter 137-58 WAC	Guidelines for implementing the State Environmental Policy Act.
Chapter 137-125 WAC	Correctional institutions - visits.

John Nispel
Rules Coordinator

WSR 02-03-004

NOTICE OF PUBLIC MEETINGS

BELLINGHAM TECHNICAL COLLEGE

[Memorandum—January 3, 2002]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, January 17, 2002, 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 02-03-005

NOTICE OF PUBLIC MEETINGS

OLYMPIC COLLEGE

[Memorandum—January 2, 2002]

The following information is for your publication records in the Washington State Register of Olympic College's regular board of trustees meetings for the year 2002.

MEETING DATES
REGULAR BOARD MEETINGS FOR 2001

January 22, 2002	7:00 p.m.	Board Conference Room
February 26, 2002	7:00 p.m.	Board Conference Room
March 26, 2002	7:00 p.m.	Board Conference Room
April 23, 2002	7:00 p.m.	Board Conference Room
May 28, 2002	7:00 p.m.	Board Conference Room
June 25, 2002	7:00 p.m.	Board Conference Room
August 27, 2002	7:00 p.m.	Olympic College Shelton
September 24, 2002	7:00 p.m.	Board Conference Room
October 22, 2002	7:00 p.m.	Board Conference Room
November 19, 2002	7:00 p.m.	Board Conference Room

MISC.

WSR 02-03-006

AGENDA

DEPARTMENT OF LICENSING

[Filed January 3, 2002, 10:33 a.m.]

Following is the rule-making agenda for the Department of Licensing. This agenda is sent as a requirement of RCW 34.05.314.

Feel free to contact Walt Fahrer if you need any assistance concerning this matter at 902-3640.

DEPARTMENT OF LICENSING
RULE-MAKING AGENDA FOR RULES UNDER DEVELOPMENT
JANUARY 2002

CR-101	CR-102	PROGRAM	SUBJECT
97-11-002		Driver responsibility	Procedural rules regarding the revocation and restoration of driving privileges of those forced to be an habitual traffic offender under chapter 46.65 RCW, including rules regarding the right to a hearing.
97-15-037		Vehicle dealers	Change in vehicle dealer temporary permit requirements.
99-12-018		Master licensing	Chapter 308-87 WAC, Limousine carrier businesses.
99-18-126		Title and registration	Chapter 308-57 WAC, Motor vehicle excise tax.
99-18-130	01-24-085	Title and registration	Chapter 308-93 WAC, Consent decree entered in <i>United States vs. Washington</i> , Civ. No. 9213-Ph 1, Nov. 1994.
99-18-010		Fuel tax	Chapter 308-97 WAC, Trip permits.
00-01-042	01-23-085	Athletics	Boxing, chapter 36-12 WAC, Wrestling, chapter 36-13 WAC, Martial arts, chapter 36-14 WAC.
00-08-064		Fuel tax	Chapter 308-78 WAC, Aircraft fuel tax etc., to include but not limited to WAC 308-78-010.
00-08-067		Master licensing	Chapter 308-300 WAC, Consolidated licensing system; specifically WAC 308-300-010 through 308-300-200.
00-10-029		Master licensing	Chapter 308-320 WAC, Commercial telephone solicitation.
00-24-111	01-24-096	Title and registration	Chapter 308-93 WAC, Vessel registration and certificate of title, transfer of ownership when owner deceased, to include but not limited to WAC 308-93-520, 308-93-530, and 308-93-540.
00-24-112	01-23-050	Title and registration	Chapter 308-93 WAC, Vessel registration and certificate of title, vessel title and registration enforcement measures, to include but not limited to WAC 308-93-250, 308-93-270, and 308-93-280.
00-24-114		Title and registration	Chapter 308-96A WAC, Vehicle licenses, procedure for registration of farm vehicles, to include but not limited to WAC 308-96A-201, 308-96A-207, and 308-96A-208.
01-01-088		Real estate	Real estate license recognition agreements or reciprocal licensing of real estate licenses. Will amend WAC 308-124A-110.
01-01-089	01-23-004	Real estate	Creation of a real estate license continuing education "core curriculum requirement" of three clock hours for each renewal period.
01-08-095	01-23-003	Real estate	Remove reference to a Spokane office from WAC 308-124B-050.
01-08-096	01-23-005	Real estate	Adding to WAC 308-124H-061 Grounds for denial or withdrawal of course approval.
00-06-001	01-13-061	Title and registration	WAC 308-97-230.
01-14-089		Cosmetology	Chapter 308-20 WAC, Cosmetology.
01-16-004	01-23-081	Appraiser	Increase application, certification, and renewal fees.
01-16-106	01-21-024	Appraiser	Incorporate by reference the generally recognized national organized standards of real estate appraisal.
01-17-060		Title and registration	Chapter 308-56A WAC, Certificates of title—Motor vehicles etc., to include but not limited to WAC 308-56A-500.
01-17-058	01-23-006	Real estate	
01-19-002	02-02-078	Title and registration	Chapter 308-90 WAC, Vessel dealer registration.
01-21-025		Appraiser	Adopt the term or duration of the temporary licensing and certification privileges granted under the provisions of this section.
01-20-100	01-23-086	Cosmetology	Update to chapter 308-20 WAC.
01-20-101		Timeshare	Update to chapter 308-127 WAC.
01-20-102		Court reporter	Update to chapter 308-14 WAC.
01-20-103		Camp resorts	Update to chapter 308-420 WAC.

MISC.

CR-101	CR-102	PROGRAM	SUBJECT
	01-21-109	Driver licensing	Adopts rules of procedure for hearings relating to proposed driver's license suspensions and revocations resulting from arrests for driving while under the influence of intoxicating liquor or any drug.
	01-21-110	Driver licensing	Updates procedures for determining the address of record for driver's license records.
	01-21-111	Driver licensing	Updates the model traffic ordinance to incorporate recent statutory changes.
	01-21-112	Driver licensing	Clarifies a recent amendment to the department's criteria for determining the need to enter into an agreement with third parties to test applicants for commercial driver's licenses.
01-22-058		Cosmetology	Fee adjustment, chapter 308-20 WAC.
01-22-059		Timeshare	Fee adjustment, WAC 308-127-160.
01-22-060		Camp resorts	Fee adjustment, chapter 308-420 WAC.
01-22-061		Professional athletics	Fee adjustment, chapters 36-12, 36-13, and 36-14 WAC.
01-21-092		Bail bond	Increase bail bond agent and agency application and renewal fees to defray costs of administering the bail bond agents program.
01-21-093		Security guard	Increase security guard and security guard company application and renewal fees to defray costs of administering the security guard program.
01-21-094		Private investigator	Increase private investigator and private investigator company application and renewal fees to defray costs of administering the private investigator program.
00-08-043	01-23-028	Title and registration	To clarify rules, WAC 308-96A-306, 308-96A-311, 308-96A-312, 308-96A-313, 308-96A-314, and 308-96A-316.
01-22-001		Engineers	Chapter 196-26 WAC, to determine if fee adjustments need to be made to comply with RCW 43.24.086.
01-24-046		Title and registration	Chapter 308-94 WAC, Snowmobiles.
01-24-057		Landscape architects	WAC 308-13-150 Landscape architects fee adjustment.
01-24-095		Title and registration	Chapter 308-96A WAC, Vehicle licenses, to include but not limited to WAC 308-96A-205, 308-96A-206, and 308-96A-220.
02-01-013		Title and registration	Chapter 308-96A WAC, Vehicle licenses, to include but not limited to WAC 308-96A-098, 308-96A-161, and 308-96A-275.
02-01-066		Landscape architects	Clarify and simplify the language and requirements for the examination process. Add a new section that allows an applicant to take the examination after completion of the academic requirement. WAC 308-13-005, 308-13-020, 308-13-024, 308-13-050, and 308-13-035.
02-01-067		Architects	Clarify and simplify the language and requirements. Repeal WAC 308-12-321, 308-12-322, 308-12-323, 308-12-324, 308-12-325, and rename the contents WAC 308-12-330.

Walt Fahrler
Rules Coordinator

MISC.

WSR 02-03-007
INTERPRETIVE AND POLICY STATEMENT
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed January 3, 2002, 4:54 p.m.]

In accordance with RCW 34.05.230(12), following is a list of Policy and Interpretive Statements issued by the department for December 2001.

If you have questions or need additional information, please call Christine Swanson at (360) 902-4216.

POLICY AND INTERPRETIVE STATEMENTS

WISHA Services Division

WISHA Regional Directive (WRD) #5.30 "Delayed Enforcement of New Recordkeeping Requirements," is a new policy that provides guidance to WISHA enforcement and consultation staff whenever they must consider the application of the WISHA record-keeping requirements. This policy was issued on December 19, 2001.

Contact Marcia Benn, mailstop 4648, phone (360) 902-5503.

Michael Silverstein
Assistant Director

WISHA Interim Interpretative Memo (WIIM) #96-4-A "Repeated and Failure to Abate (FTA) Accident Prevention Plan (APP) Violations," has been repealed. This policy addressed issues of how an employer with diverse operations that are covered by more than one standard should be cited for violation of the APP requirement(s) and whether subsequent APP violations from a different standard should be cited as "FTA" violations. This policy is no longer necessary. This policy was repealed on December 31, 2001.

Contact Marcia Benn, mailstop 4648, phone (360) 902-5503.

Michael Silverstein
Assistant Director

WISHA Interim Interpretative Memorandum (WIIM) #96-9-C, "Personal Protective Equipment Assessment, Training & Payment," has been repealed. This policy provided guidance to WISHA staff regarding Personal Protective Equipment. The guidance contained in this policy has been incorporated in chapter 296-800 WAC, Safety and health core rules. This policy was repealed on December 31, 2001.

Contact Marcia Benn, mailstop 4648, phone (360) 902-5503.

Michael Silverstein
Assistant Director

WISHA Interim Interpretative Memorandum (WIIM) #96-9-G, "Incidental use in relation to rollover protection in agriculture," has been repealed. This policy provided guidance to WISHA staff when they must address the question of whether work otherwise covered by the requirements of WAC 296-306-200 is exempt as "incidental" use of tractors. Chapter 296-306 WAC has been replaced with chapter 296-307 WAC, Agriculture, therefore; this policy is outdated and no longer needed. This policy was repealed on December 31, 2001.

Contact Marcia Benn, mailstop 4648, phone (360) 902-5503.

Michael Silverstein
Assistant Director

WISHA Interim Interpretative Memorandum (WIIM) #96-9-H, "Management Responsibility to Investigate Serious Injuries," has been repealed. This policy provided guidance to WISHA staff in relation to WAC 296-24-020(2) that established employer responsibility to investigate accidents that cause serious injuries that have immediate symptoms. This was clarified when incorporated into chapter 296-800 WAC, Safety and health core rules. This policy was repealed on December 31, 2001.

Contact Marcia Benn, mailstop 4648, phone (360) 902-5503.

Michael Silverstein
Assistant Director

WISHA Interim Interpretative Memorandum (WIIM) #96-11-I, "WISHA jurisdiction on native American tribal lands," has been repealed. This policy provided guidance to WISHA compliance staff in handling complaints and referrals in which tribal jurisdiction becomes an issue. The policy is no longer necessary with the updated agreement on jurisdiction. This policy was repealed on December 31, 2001.

Contact Marcia Benn, mailstop 4648, phone (360) 902-5503.

Michael Silverstein
Assistant Director

Christine Swanson
Legislative and Governmental
Affairs Office

WSR 02-03-013

NOTICE OF PUBLIC MEETINGS CASCADIA COMMUNITY COLLEGE [Memorandum—December 20, 2001]

Cascadia Community College
2002 Board of Trustees - Meeting Dates
Third Wednesday of Each Month

All meetings will begin at 8:00 a.m. and will take place in the Board Room (Room 260) at Cascadia Community College, 18345 Campus Way N.E., Bothell, WA 98011.

2002 Board Meeting Dates

Wednesday, January 16, 2002
Wednesday, February 20, 2002
Wednesday, March 20, 2002
Wednesday, April 17, 2002
Wednesday, May 15, 2002
Wednesday, June 19, 2002
Wednesday, September 18, 2002
Wednesday, October 16, 2002
Wednesday, November 20, 2002
Wednesday, December 18, 2002

Please note: No regular meetings will be held during July and August.

WSR 02-03-026

NOTICE OF PUBLIC MEETINGS BENTON CLEAN AIR AUTHORITY [Memorandum—December 31, 2001]

We would like to publish our "regular" board meetings schedule for 2001 in the state register as provided for in RCW 34.08.040. The meetings are held on the third Thursday of each month. The meetings begin at 7:00 p.m.

The location for the January and February 2002 meetings will remain in the Conference Room at 5600 Canal, Kennewick, WA 99336. However, as of March 2002, the meetings will be held in the Conference Room of our new offices at 114 Columbia Point Drive, Richland, WA 99352.

Terry Flores remains the contact person for information and can be reached at (509) 943-3396. Our scheduled move in date will be in January 2002 and our mailing address will become 114 Columbia Point Drive, Suite C, Richland, WA 99352. There will be no change in telephone numbers.

WSR 02-03-027

**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE**

(Bulb Commission)

[Memorandum—January 4, 2002]

In 2002 there will only be one meeting on Wednesday, May 15, 2002, at WSU-Mount Vernon at noon. The meeting normally held late November/early December will be at SeaTac Marriott on January 8, 2003. Future meetings will be mid May and early January.

WSR 02-03-028

**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE**

(Hop Commission)

[Memorandum—January 3, 2002]

The Washington Hop Commission has adopted a schedule for 2002 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 28	Yakima
April 9	Zillah
June 11	Prosser
October 15	Sunnyside
December 6	Yakima (annual meeting)

Interested parties may call the Washington Hop Commission at (509) 453-4749 for the time and site of each meeting.

WSR 02-03-029

**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE**

(Beef Commission)

[Memorandum—January 4, 2002]

This is to notify you of the following Year 2002 meeting dates for the Washington State Beef Commission:

January 24, 2002	Board Meeting	Ellensburg
March 7-8, 2002	Strategic Planning/ Board Meeting	Seattle
May 9, 2002	Board Meeting	Ellensburg
June 27, 2002	Annual Meeting	Ellensburg
August 15-16, 2002	Board Meeting/ Washington Cattle Feeders Convention	TBD
November 21-23, 2002	Board Meeting/ Washington Cattlemen's Association	Wenatchee

Should you have questions, please contact Rosalee Mohney at (206) 444-2902.

WSR 02-03-030

**NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY**

[Memorandum—January 7, 2002]

**Eastern Washington University
BOARD OF TRUSTEES**

ANNOUNCEMENT

of

Special Joint Governing Board Meeting

January 17, 2002

**University of Washington
Seattle, Washington**

A quorum of the board of trustees of Eastern Washington University will participate in a special meeting at the University of Washington on Thursday, January 17, 2002, beginning at 9:30 a.m. The focus of the meeting is to encourage a dialogue about the challenges faced by the state public universities as we respond to the changing economic and social environment in this decade.

WSR 02-03-032

**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed January 7, 2002, 3:22 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 01-77 MAA.
Subject: Physician-related services (RBRVS) - Year 2002 CPT/HCPCS changes and additions.

Effective Date: Claims on and after January 1, 2002.

Document Description: **Effective for claims with dates of service on and after January 1, 2002**, the Medical Assistance Administration (MAA) will begin using the Year 2002 CPT® and HCPCS Level II code additions and are detailed within this memorandum. Maximum allowable fees for the Year 2002 additions and base anesthesia units (BAU) are also included.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, 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>.

December 28, 2001

E. A. Myers, Manager
Rules and Publications Section

MISC.

WSR 02-03-033
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed January 7, 2002, 3:23 p.m.]

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>.

December 28, 2001

E. A. Myers, Manager

Rules and Publications Section

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 01-74 MAA.

Subject: Smoking cessation counseling for pregnant women.

Effective Date: Claims on or after January 1, 2002.

Document Description: **Effective for claims with dates of service on and after January 1, 2002**, the Medical Assistance Administration (MAA) will reimburse eligible providers for including smoking cessation counseling as part of an antepartum care visit or a postpregnancy office visit (which must take place within two months following live birth, miscarriage, fetal death, or pregnancy termination). This memorandum details the billing procedures.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360)

WSR 02-03-034

AGENDA

DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed January 7, 2002, 3:24 p.m.]

Following is the Department of Social and Health Services' semiannual rule-making agenda, by administration, for January 1, 2002, through June 30, 2002. This report will be published in the state register pursuant to RCW 34.05.314, and distributed to interested parties.

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, or as a result of legislative actions.

DEPARTMENT OF SOCIAL AND HEALTH SERVICES
 SEMI-ANNUAL RULE-MAKING AGENDA FOR
 JANUARY 1, 2002 THROUGH JUNE 30, 2002

AGING AND ADULT SERVICES ADMINISTRATION

WAC Chapter or Section	Chapter and Subpart Caption	Subject Matter or Section Caption	Proposed Action
WAC 388-71-1065 through 388-71-1095	Social services for adults	Respite care services	Update current WACs to include new services allowed under the family caregiver support program.
WAC 388-76-640	Adult family homes minimum licensing requirements—Part III rights and services—Negotiated care plan	Resident medications	Review and repeal.
WAC 388-76-64010	Adult family homes minimum licensing requirements—Part III rights and services	New section	Develop new section on provider responsibilities for the resident's medication management plan.
WAC 388-76-64015	Adult family homes minimum licensing requirements—Part III rights and services	New section	Develop new section on why a resident's medication plan may need to be changed and how to change it.
WAC 388-76-64020	Adult family homes minimum licensing requirements—Part III rights and services	New section	Develop new section on requirements that apply to any medication plan.
WAC 388-76-64025	Adult family homes minimum licensing requirements—Part III rights and services	New section	Develop new section on who is considered independent for the purposes of medication administration.
WAC 388-76-64030	Adult family homes minimum licensing requirements—Part III rights and services	New section	Develop new section on what requirements apply when a resident receives assistance with self-administration of medications.

MISC.

WAC Chapter or Section	Chapter and Subpart Caption	Subject Matter or Section Caption	Proposed Action
WAC 388-76-64035	Adult family homes minimum licensing requirements—Part III rights and services	New section	Develop new section on what requirements apply when a resident needs administration of medications.
WAC 388-76-61510	Adult family homes minimum licensing requirements—Part III rights and services—Negotiated care plan	When must the negotiated care plan be developed?	Review and amend as appropriate.
WAC 388-76-765	Adult family homes minimum licensing requirements—Part VI—Physical plant requirements	Fire safety	Review and amend as appropriate.
WAC 388-78A-070, 388-78A-080, 388-78A-090, 388-78A-100, 388-78A-110, 388-78A-120, 388-78A-130, 388-78A-140, 388-78A-150, 388-78A-160, 388-78A-170, 388-78A-180, 388-78A-190, 388-78A-200, 388-78A-210, 388-78A-220, 388-78A-230, 388-78A-240, 388-78A-250, 388-78A-260, 388-78A-265, 388-78A-268, 388-78A-280, 388-78A-290, 388-78A-300, 388-78A-310, 388-78A-320, 388-78A-330, 388-78A-335, 388-78A-340, and 388-78A-990	Boarding homes		Review and amend as appropriate.
WAC 388-97-05	Nursing homes—Subchapter I resident rights, care and related services	New section	Develop new section on when inspections conducted and what is included in deficiency citation report.
WAC 388-97-005, 388-97-043, 388-97-07005, 388-97-07040, 388-97-07050, 388-97-076, 388-97-160, 388-97-162, 388-97-180, 388-97-202, 388-97-205, 388-97-260, 388-97-35040, and 388-97-285	Nursing homes	Subchapter I—Resident rights, care and related services	Review and amend as appropriate.
WAC 388-97-203 (New)	Nursing homes—Subchapter I resident rights, care and related services	New section	Develop new section specifying conditions that prohibits licensee to retaliate and discriminate against employee or resident.
WAC 388-97-565, 388-97-570, 388-97-575, 388-97-580, 388-97-585, and 388-97-595	Nursing homes	Subchapter III nursing home license	Review and amend as appropriate home license.

MISC.

WAC Chapter or Section	Chapter and Subpart Caption	Subject Matter or Section Caption	Proposed Action
WAC 388-97-610	Nursing homes—Subchapter III nursing home license	New section	Develop new section on when plan of correction must be completed and under what conditions.
WAC 388-97-615	Nursing homes—Subchapter III nursing home license	New section	Develop new section describing what an acceptable plan of correction contains.
WAC 388-97-620	Nursing homes—Subchapter III nursing home license	New section	Develop new section on the purpose and process of informal department review.
WAC 388-97-625	Nursing homes—Subchapter III nursing home license	New section	Develop new section on actions and conditions to appeal.
WAC 388-97-630	Nursing homes—Subchapter III nursing home license	New section	Develop new section on the types of mandatory and optional remedies.
WAC 388-97-635	Nursing homes—Subchapter III nursing home license	New section	Develop new section on conditions in which optional remedies may be imposed.
WAC 388-97-640	Nursing homes—Subchapter III nursing home license	New section	Develop new section describing the different levels of seriousness of deficiencies.
WAC 388-97-645	Nursing homes—Subchapter III nursing home license	New section	Develop new section on description of separate deficiencies.
WAC 388-97-650	Nursing homes—Subchapter III nursing home license	New section	Develop new section on when stop placement order remains in effect.
WAC 388-97-655	Nursing homes—Subchapter III nursing home license	New section	Develop new section on range of civil fines.
WAC 388-97-660	Nursing homes—Subchapter III nursing home license	New section	Develop new section on when civil fine starts and when payment is due.
WAC 388-97-665	Nursing homes—Subchapter III nursing home license	New section	Develop new section on uses of civil penalty fund.
WAC 388-97-670	Nursing homes—Subchapter III nursing home license	New section	Develop new section on the licensee's responsibility when a temporary management is appointed.
WAC 388-97-675	Nursing homes—Subchapter III nursing home license	New section	Develop new section on once receivership is established, when the department may recommend residents to be relocated.
WAC 388-97-680	Nursing homes—Subchapter III nursing home license	New section	Develop new section on the process of becoming temporary manager and receiver.
WAC 388-97-685	Nursing homes—Subchapter III nursing home license	New section	Develop new section on factors to consider in appointing a temporary manager.
WAC 388-97-690	Nursing homes—Subchapter III nursing home license	New section	Develop new section on duties and responsibilities of temporary manager and receiver.

MISC.

WAC Chapter or Section	Chapter and Subpart Caption	Subject Matter or Section Caption	Proposed Action
WAC 388-97-695	Nursing homes—Subchapter III nursing home license	New section	Develop new section on conditions in which temporary management may be terminated and when the department may appoint an alternate temporary manager.
CHILDREN'S ADMINISTRATION			
WAC 388-27-0135	Child welfare services—Adoption services and adoption support, Part B	What is the purpose of the adoption support program?	Clarify child placement status in determining eligibility for adoption support program.
Chapter 388-27 WAC	Child welfare services—Adoption services and adoption support, Part E	In-home relative care	Add new section on in-home relative care.
Chapter 388-148 WAC; new chapter 388-145 WAC	Licensing requirements for child foster homes, staffed residential homes, group care programs/facilities, and agencies	Emergency respite centers	Develop new sections on emergency respite centers.
ECONOMIC SERVICES ADMINISTRATION			
Chapter 388-444 WAC	Food stamp employment and training	Same	Simplify WACs to update the language.
WAC 388-14A-3900 to 388-14A-3925	Division of child support rules—Part C—How the division of child support decides how much child support someone should pay	Support orders	Amend rules to allow for the modification of support orders when the responsible parent has no income.
Chapter 388-484 WAC	TANF/SFA five year time limit	Temporary assistance to needy families (TANF) time limits and the 20% hardship extension	Incorporate the 20% hardship extension into TANF/SFA programs.
Chapter 388-410 WAC	Benefit error	Food assistance	Implement federal regulations and rewrite the food assistance rules for clarity.
WAC 388-450-0015, and 388-450-0055	Income	Voluntary resettlement agency (VOLAG)	Amend rules concerning VOLAG payments.
WAC 388-14A-3130, 388-14A-3295, 388-14A-5520, 388-14A-5530, and 388-14A-5535	Division of child support rules, Parts B and E	Administrative hearings	Amend and develop new rules allowing forms to be sent by first class instead of certified mail.
WAC 388-310-1600	WorkFirst	Sanctions	Amend the sanction process for WorkFirst participants.
Chapter 388-408 WAC	Assistance units	Same	Revise chapter in order to simplify the rules.
Chapter 388-448 WAC	Incapacity	Work plus	Develop new individual responsibility plan requirements for general assistance clients in the work plus program.
WAC 388-310-0800	WorkFirst	Support services	Amend support service limits and clarifying language.
Chapters 388-460 and 388-265 WAC	Payees of benefit issuances; payment of grants	WorkFirst	Amend WorkFirst protective payee policies.

MISC.

WAC Chapter or Section	Chapter and Subpart Caption	Subject Matter or Section Caption	Proposed Action
Chapter 388-310 WAC	WorkFirst	Participation requirements	Amend rules to change the participation requirements for the Work-First program.
HEALTH AND REHABILITATIVE SERVICES ADMINISTRATION			
Division of Alcohol and Substance Abuse			
Chapter 388-805 WAC	Certification requirements for chemical dependency service providers	Treatment programs	Implement federal accreditation requirements for opioid treatment programs, changes to requirements of opiate substitution treatment services required by SB 5417, and update other sections as needed based on stakeholder input.
Division of Developmental Disabilities			
Chapter 388-820 WAC	Community residential services and supports	Same	Review and amend; clarification of terms.
Chapter 388-825 WAC	Division of developmental disabilities services rules	Same	Review and amend; clarification of terms.
Chapter 388-850 WAC	County plan for mental health, developmental disabilities	Same	Revise for clarity in compliance with the Governor's Executive Order 97-02.
Division of Vocational Rehabilitation			
Chapter 388-890 WAC	Rehabilitation services for individuals with disabilities	Independent living services	Create a new chapter for the provision of independent living services. Comply with changes in federal regulations (34 C.F.R. 361 and 365) and to consider other policy changes.
Chapter 388-XXX WAC	New chapter	Independent living service providers; background checks	Create a new chapter, and comply with changes in federal regulations (34 C.F.R. 361). Also, to comply with ESSB 5606 (background checks) and to consider other policy changes.
WAC 490-500-520	Vocation rehabilitation and services for individuals with disabilities	Purchase of services— Selection criteria—Community rehabilitation programs	Repeal current section and develop new sections [in] Title 388 WAC on assistive technology providers.
JUVENILE REHABILITATION ADMINISTRATION			
Chapter 388-700 WAC	Juvenile rehabilitation administration—Practices and procedures	Background checks	Review for potential changes due to new background check process.
Chapter 388-740 WAC	Juvenile parole revocation	Same	Review for potential changes for parole and revocation process clarification.
Chapter 388-745 WAC	Transfer of juvenile offender to the Department of Corrections (DOC)	Transfer process	Review for potential changes to clarify the DOC transfer process.
Chapter 388-750 WAC	Impact account—Criminal justice cost reimbursement	Reimbursement rates	Review for potential changes to clarify reimbursement rates.

MISC.

WAC Chapter or Section	Chapter and Subpart Caption	Subject Matter or Section Caption	Proposed Action
MEDICAL ASSISTANCE ADMINISTRATION			
Chapter 388-505 WAC	Family medical	Eligibility factors common to medical	Review and amend as appropriate.
Chapter 388-506 WAC	Medical financial responsibility	Same	Review and amend as appropriate.
WAC 388-527-2742	Estate recovery	Services subject to recovery	Review and amend as appropriate.
Chapter 388-531 WAC	Physician-related services	Teaching physicians	Add new sections on teaching physicians.
Chapter 388-536 WAC	New chapter	Federally qualified health centers	Add new sections on federally qualified health centers.
WAC 388-540-XXXX	Kidney centers	Same	Add new sections concerning kidney centers.
Chapter 388-544 WAC	Vision and hearing services	Same	Review and amend as appropriate.
Chapter 388-546 WAC	Transportation	Same	Review and amend as appropriate.
Chapter 388-555 WAC	Interpreter services	Same	Review and amend as appropriate.
Chapter 388-XXX WAC	New chapter	Rural health centers	Develop new rules on rural health centers.
Chapter 388-XXX WAC	New chapter	Blood banks	Develop new rules concerning blood banks.
MANAGEMENT SERVICES ADMINISTRATION			
Chapter 388-02 WAC	DSHS hearing rules	Phase II of administrative hearing rule revisions	Review and amend as appropriate. Add new sections as required.
OFFICE OF THE SECRETARY			
Chapter 388-01 WAC	DSHS organization—Disclosure of public records	Disclosure of public records	Review and amend as appropriate.
Chapter 388-01 WAC	DSHS organization—Disclosure of public records	New section	Add section concerning rights of action.

WSR 02-03-035

**NOTICE OF PUBLIC MEETINGS
PARKS AND RECREATION
COMMISSION**

[Memorandum—January 7, 2002]

2002 Schedule of Regular Meetings

The Washington State Parks and Recreation Commission's **Snowmobile Advisory Committee** has adopted the following schedule of regular meetings for 2002:

Date	Location
February 2	Trout Lake
July 27 and 28	Wenatchee

The state Parks and Recreation Commission's **Winter Recreation (Sno-Park) Advisory Committee** has adopted the following schedule of regular meetings for 2002:

Date	Location
January 26	Tonasket
August 3 and 4	Wenatchee

All Snowmobile Advisory Committee and Winter Recreation Advisory Committee meetings will begin at 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, e-mail roxie.stancil@parks.wa.gov, or by calling (360) 586-6645.

The public is welcome to attend all state Parks 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.

MISC.

WSR 02-03-036
RULES COORDINATOR
OFFICE OF
FINANCIAL MANAGEMENT

[Filed January 7, 2002, 4:26 p.m.]

Jennifer Strus will be the new rules coordinator for the Office of Financial Management. Her contact information is: P.O. Box 43113, Olympia, WA 98504-3113, phone (360) 902-0568, e-mail jennifer.strus@ofm.wa.gov.

Marty Brown
 Director

WSR 02-03-042
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE LIBRARY

(Library Commission)

[Memorandum—January 8, 2002]

The next Washington State Library Commission meeting will be held on February 20, 2002, at 1:30 p.m. The meeting will take place in the 4th Floor EMT Conference Room of the library located at 6880 Capitol Way South, Point Plaza East, Building 1, in Tumwater.

If you have any questions, please call Patricia Davis at (360) 704-5249.

WSR 02-03-043
NOTICE OF PUBLIC MEETINGS
SKAGIT VALLEY COLLEGE

[Memorandum—January 9, 2002]

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 7, 2002
 4:30 p.m.

Mount Vernon Campus - Board Room

Chairperson, Mr. Jess del Bosque, has called a special meeting of the board of trustees for **Monday, January 7, 2002, at 4:30 p.m.** This meeting is being held as an executive session to discuss personnel issues, no action will be taken.

WSR 02-03-044
PROCLAMATION
OFFICE OF THE GOVERNOR

[January 8, 2002]

WHEREAS, the cumulative effects of a series of storm events, including high winds, record rainfalls, slides, and floods, that began on November 21, 2001, in western Washington continue to threaten citizens and property of Washington State;

WHEREAS, these events caused extensive damage to the transportation infrastructure in several counties in western Washington. The current damage costs have reached an estimated \$2,191,665 as of December 24, 2001, and may continue to increase;

WHEREAS, the Washington State Department of Transportation is coordinating resources to repair and clear roadways of debris to alleviate the immediate impacts upon the infrastructure, and is continuing to assess the magnitude of these events;

NOW, THEREFORE, I, Gary Locke, Governor of the state of Washington, as a result of this situation and under RCW 38.08, 38.52, and 43.06, do hereby proclaim that a State of Emergency exists in Clallam, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Okanogan, Pacific, Pierce, Snohomish, and Thurston counties, and direct the supporting plans and procedures of the *Washington State Comprehensive Emergency Management Plan* be implemented. State agencies and departments shall use state resources and do everything possible to assist affected political subdivisions to respond to and recover from the events. Additionally, the Washington State Department of Transportation shall coordinate all event-related assistance to the affected areas.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia, this 8th day of January, A.D., Two Thousand and Two.

Gary Locke

 Governor of Washington

BY THE GOVERNOR:

Stephen Excell

 Assistant Secretary of State

WSR 02-03-045
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
LABOR AND INDUSTRIES
(Apprenticeship and Training Council)

[Memorandum—January 8, 2002]

As per chapter 42.30 RCW, the Open Public Meetings Act, the time and place of the regular meetings for the Washington State Apprenticeship and Training Council are as follows:

DATE	TIME	LOCATION
January 17-18, 2002	9:00 a.m.	Labor and Industries Building 7273 Linderson Way S.W. Tumwater, WA 98504
April 18-19, 2002	9:00 a.m.	WestCoast Tri-Cities Hotel 1101 North Columbia Center Boulevard Kennewick, WA 99336-1192
July 18-19, 2002	9:00 a.m.	To be determined
October 17-18, 2002	9:00 a.m.	WestCoast Ridpath Hotel 515 West Sprague Avenue Spokane, WA 99201

The specific location for one of the regular meetings is still being determined. Please call (360) 902-5322 if you have any questions about these meetings and prior to attending the meeting that the location is still to be determined.

WSR 02-03-046
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
LABOR AND INDUSTRIES
 (Electrical Board)
 [Memorandum—January 8, 2002]

The time and place of the regular meetings for the Electrical Board is as follows:

DATE	TIME	LOCATION
January 31, 2002	9:00 a.m.	Labor and Industries Building 7273 Linderson Way S.W. Tumwater, WA 98504
April 25, 2002	9:00 a.m.	To be determined.
July 25, 2002	9:00 a.m.	Labor and Industries Building 7273 Linderson Way S.W. Tumwater, WA 98504
October 31, 2002	9:00 a.m.	Labor and Industries Building 7273 Linderson Way S.W. Tumwater, WA 98504

The specific location for one of the regular meetings is still being determined. Please call (360) 902-5572 if you have any questions about these meetings and prior to attending the meeting that the location is still to be determined.

WSR 02-03-047
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed January 9, 2002, 12:25 p.m.]

As per RCW 49.46.020, the Department of Labor and Industries has calculated the adjusted minimum wage rate to be \$6.90, effective January 1, 2002.

Please call (360) 902-5303 if you have any questions.

Rich Ervin
 Employment Standards
 Program Manager

WSR 02-03-059
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF LICENSING
 (Real Estate Commission)
 [Memorandum—January 10, 2002]

The following is the Washington Real Estate Commission 2002 Regular Meeting Schedule:

March 12, 2002 (Tuesday)	Annual Planning Session	Olympia
March 13, 2002 (Wednesday)	Regular Meeting	Olympia
June 13, 2002 (Thursday)	Regular Meeting	Olympia
September 17, 2002 (Tuesday)	Regular Meeting	Yakima
December 6, 2002 (Friday)	Regular Meeting	SeaTac

MISC.

WSR 02-03-070
AGENDA
DEPARTMENT OF ECOLOGY

[Filed January 11, 2002, 1:05 p.m.]

Department of Ecology
Rules Agenda
January 2002

WAC Chapter	Chapter Title	Contact Person	CR-101 Filing Date	CR-102 Filing Date	CR-103 Filing Date	Scope of Changes/ Sections to Amend
Air Quality						
173-400, 173-405, 173-410, 173-433, 173-434, AO #99-07, 7/96	Emissions standards for solid waste incinerators; General regulation for air pollution sources; Kraft pulping mills; Sulfite pulping mills; Solid fuel burning device standards	Peter Lyon (360) 407-7530 plyo461@ecy.wa.gov and Tom Todd (360) 407-7528 ttod461@ecy.wa.gov	Mar-99	Dec-02	Jul-02	Hog fuel boiler RACT; define terms related to wood derived fuels; reorganize state incinerator rule.
173-400, AO #99-06, 7/98	General regulation for air pollution sources	Elena Guilfoil (360) 407-6855 egui461@ecy.wa.gov	Apr-99	Feb-01	Aug-01	This action focuses on two air quality programs located in chapter 173-400 WAC: The prevention of significant deterioration or PSD program which addresses major new air pollution sources; and the best available retrofit technology provisions.
Shorelands and Environmental Assistance						
173-700, AO #98-26, 1/99	Wetland mitigation banks	Lauren Driscoll (360) 407-6861 ldri461@ecy.wa.gov	Jan-99	Dec-01	Mar-02	Develop procedures for the operation, monitoring and implementation of wetland banks.
173-158, #00-26, 7/99	Floodplain management	Tim D'Acci (360) 407-6796 tdac461@ecy.wa.gov	Oct-00	Feb-02	Jul-02	Amend WAC to implement ESHB 1963 which allows reconstruction in floodways under certain circumstances.
197-11, #00-05, 7/00	SEPA rules	Marv Vialle (360) 407-6938 mvia461@ecy.wa.gov	Mar-00	Mar-02	Jun-02	Revise environmental checklists (nonproject).
Solid Waste and Financial Assistance						
173-304, AO #99-24, 7/97	Minimum functional standards for solid waste handling	Mike Hibbler (509) 456-3270 MHIB461@ecy.wa.gov	Nov-99	Feb-02	Jul-02	Update approaches to nonmunicipal solid waste management. Respond to state legislation aimed at removing impediments to recycling.
173-312, AO #01-11, 12/01	Coordinated prevention grants	Randy Martin (360) 407-6136 rmar461@ecy.wa.gov	n/a	Dec-01	Feb-02	Clean up outdated language, simplify application and reporting requirements - expedited adoption process.
Spill Prevention, Preparedness and Response						
317-10, 173-181, AO #00-03, 7/99	Oil spill contingency plans and response contractor standards	Linda Pilkey-Jarvis (360) 407-7447 jpil461@ecy.wa.gov	Feb-00	Apr-02	Jul-02	Update plan requirements, mandate incident command systems, incorporate planning standards, and update primary response contractor standards.
xxx-xx, AO #00-23, 9/00	Tank vessel rule	Jeff Fishel (360) 407-7504 jfis461@ecy.wa.gov	Sep-00	Sep-02	Mar-03	Develop rules for tank vessels that address peculiarities of Washington waters.
Water Resources						
173-537, #99-25, 1/00	Water resources management for the Yakima River Basin	Bob Barwin (509) 457-7107 bbar461@ecy.wa.gov	Oct-99	Dec-02	May-03	Withdraw ground water from further appropriation, per MOA with BoR and Yakama Nation.

MISC.

WAC Chapter	Chapter Title	Contact Person	CR-101 Filing Date	CR-102 Filing Date	CR-103 Filing Date	Scope of Changes/ Sections to Amend
173-173, 508, 64, AO #00-01, 1/00	Water use metering	Jeff Marti (360) 407-6636 jema461@ecy.wa.gov	Feb-00	Jul-01	Dec-01	Repeals chapter 508-64 WAC and replaces it with chapter 173-173 WAC to address metering requirements (RCW 90.03.360).
173-151, AO #00-25, 10/00	Water right administration, Phase 1 of several phases	Steve Hirschey (425) 649-7066 shir461@ecy.wa.gov	Oct-00	Feb-03	Jul-03	Set forth statutory provisions and common law holding and interpretation for the administration of water rights.
173-563 and 531A, AO #01-05, 7/01	Columbia River main stem and John Day-McNary Pools	Bob Barwin (509) 457-7107 bbar461@ecy.wa.gov	Jul-01	Jun-03	Dec-03	Clarify elements of the instream flow program.
173-153, AO #01-13, 12/01	Water conservancy boards	Chris Anderson (360) 407-6634 cand461@ecy.wa.gov	Dec-01	Jun-02	Oct-02	To amend chapter 173-153 WAC, Water conservancy boards, adopted in 1999, so it will conform [conform] to the changes made to chapter 90.80 RCW through ESHB 1832, that was passed by the legislature during the 2001 session.
Water Quality						
173-224, AO #01-09, 8/01	Wastewater discharge permit fees	Bev Poston (360) 407-6425 bpos461@ecy.wa.gov	Aug-01	Jan-02	May-02	Amend fee rule, add fee category for aquatic pesticide applicators.
173-201A, AO #98-20, 7/98	Surface water quality standards for the state of Washington	Mark Hicks (360) 407-6477 mhic461@ecy.wa.gov	Feb-99	Aug-02	Jan-03	A. Develop regulatory language to guide the implementation of a water quality antidegradation policy. This would focus on protecting water quality standards, implementing technology-based pollution control requirements, and ensuring degradation that is allowed is in the overriding public interest. It would also include provisions to set aside waters constituting an outstanding national resource from all degradation. B. Look at the way beneficial uses are assigned for protection to waterbodies under the water quality standards.
173-216, 220, 226, AO #01-08, 12/01	State waste discharge, NPDES	Keith Johnson (360) 407-6442 kjoh461@ecy.wa.gov	Aug-01	Dec-01	Feb-02	Exempt turbidity needing certified lab test.
173-218, 216, 226, AO #01-10	Underground injection control program	Mary Shaleen-Hansen (360) 407-6143 maha461@ecy.wa.gov	Dec-01	Apr-02	Jun-02	The rule amendments will: (1) Bring it current with new federal rule changes; (2) create consistency between the rules that govern UIC wells; and (3) clarify the language of the rule.
Environmental Assessment Program						
173-50, AO #01-12, 12/01	Accreditation of environmental laboratories	Perry Brake (360) 895-6149 pbra461@ecy.wa.gov	Dec-01	Apr-02	Oct-02	The amendments will add accreditation for matrices other than water, accreditation for drinking water laboratories, granting NELAP accreditation, make changes to the fee schedule, and add accreditation for physical tests.

Dates that are in "bold" print, indicate that filing has occurred.

MISC.

WSR 02-03-071
NOTICE OF PUBLIC MEETINGS
WESTERN WASHINGTON UNIVERSITY
 [Memorandum—January 11, 2002]

REVISED NOTICE
WESTERN WASHINGTON UNIVERSITY
BOARD OF TRUSTEES

Western Washington University board of trustees will hold a work session to discuss fiscal issues; **NO ACTION TO BE TAKEN**. In addition, the board will adjourn into executive session to discuss pending litigation; **NO ACTION TO BE TAKEN**.

Date: Monday, January 14, 2002
 Time: 9:30 a.m.
 Location: Preston Gates & Ellis
 Conference Room 9
 5000 Bank of America Tower
 701 Fifth Avenue
 Seattle, WA

WSR 02-03-072
AGENDA
UNIVERSITY OF WASHINGTON
 [Filed January 11, 2002, 1:44 p.m.]

The University of Washington's
Semiannual Agenda for Rules Under Development
(Per RCW 34.05.314)
January 2002

1. Rule making continues for new chapter 478-117 WAC, Parking and traffic rules of the University of Washington, Bothell, in conjunction with Cascadia Community College rules, during the first half of 2002.
2. Rule making continues for chapter 478-136 WAC, Use of University of Washington facilities, during the first half of 2002.
3. Rule making continues for chapter 478-160 WAC, Admission and registration procedures for the University of Washington, during the first half of 2002.
4. Rule making for new chapter 478-118 WAC, Parking and traffic rules of the University of Washington, Tacoma, will begin during the first half of 2002.
5. Rule making to amend WAC 478-116-131 Parking for events and other university functions, will begin during the first half of 2002.
6. Expedited adoption of housekeeping amendments to various Title 478 WAC rules is rescheduled for the second half of 2002.
7. Rule review for chapter 478-124 WAC, General conduct code for the University of Washington, is rescheduled for the second half of 2002.

For more information concerning the above rules under review or development, contact Rebecca Goodwin Dear-

dorff, Director, Administrative Procedures Office, University 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.

Rebecca Goodwin Dearthorff, Director
 Administrative Procedures Office

WSR 02-03-073
NOTICE OF PUBLIC MEETINGS
OFFICE OF THE GOVERNOR
 (Clemency and Pardons Board)
 [Memorandum—January 11, 2002]

The Washington State Clemency and Pardons Board hereby file with the code reviser the following schedule of its regular meetings for 2002: The March 8, June 14, September 13, and December 13, 2002, meetings of the Clemency and Pardons Board will be held in the John A. Cherberg Building, Hearing Room 4, Olympia, Washington, starting at 10:00 a.m.

WSR 02-03-076
NOTICE OF PUBLIC MEETINGS
PUBLIC WORKS BOARD
 [Memorandum—January 14, 2002]

The Public Works Board meeting scheduled as a regular meeting on February 5, 2002, in the City of SeaTac, has been cancelled.

Proposed agenda items will be presented to the board at the regular meeting in SeaTac, Washington, scheduled for March 5, 2002.

WSR 02-03-078
NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE
 [Memorandum—January 11, 2002]

EDMONDS COMMUNITY COLLEGE
BOARD OF TRUSTEES
NOTICE OF SPECIAL MEETINGS
TO MEDIA/OTHER

REVISED

January 7, 2002* VIP Social for International Students, EdCC, Triton Union Building 202, 20000 68th Avenue West, Lynnwood, WA, 1:30 p.m.
Purpose: Luncheon to welcome new international students.

- January 12, 2002* International Student Orientation Dinner Cruise, Seattle Waterfront, 7:00 - 10:00 p.m.
Purpose: Orientation dinner for international students.
- January 15, 2002* Interview with Potential Board of Trustees Candidate, EdCC 20000 68th Avenue West, Lynnwood, WA, 5:00 - 6:00 p.m.
Purpose: To interview a potential candidate for the board of trustees.
- January 17, 2002 Edmonds Community College Board of Trustees Regular Board Meeting, EdCC, Snohomish Hall, Room 304, 20226 68th Avenue West, Lynnwood, WA, 4:00 p.m.
Purpose: To address routine college business.
- January 19, 2002* EdCC Foundation Board Retreat/Annual Meeting, Home of Dick Van Hollebeke, 8:30 a.m. - 3:00 p.m.
Purpose: Annual foundation board retreat.
- January 29, 2002* Grand Opening Ceremony for Mill Creek Hall, EdCC, 20000 68th Avenue West, Lynnwood, WA, 6:30 p.m.
Purpose: New building dedication.

*This event is being scheduled as a special meeting, which is a study session where no action will be taken.

WSR 02-03-079
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
 [Memorandum—January 11, 2002]

In accordance with RCW 42.30.075, the University of Washington is providing the enclosed meeting notices 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.

[These schedules are available for public inspection at the Office of Public Records and Open Public Meetings, 4014 University Way N.E., Seattle, WA 98105-6203, phone (206) 543-9180, fax (206) 616-6294, e-mail pubrec@u.washington.edu, campus mail Box 355502.]

University of Washington Regular Meetings 2002

Department	Chair
Aeronautics & Astronautics	Adam Bruckner
Applied Mathematics	Ka Kit Tung
Aquatic & Fishery Sciences	David Armstrong

Biobehavioral Nursing	M. Heitkemper
Biochemistry	Alan M. Weiner
Board of Regents	
Botany	Joseph Ammirati
Bothell-Business	Stanley Slater
Bothell-Nursing	Anne Loustau
Chemical Engineering	Eric M. Stuve
Chemistry	Paul B. Hopkins
Classics	Stephen Hinds
Comparative Medicine	Melvin B. Dennis
Computer Science & Engineering	David Notkin
Communications	C. Anthony Giffard
Biomedical & Health Informatics	Peter Tarczy-Hornoch
Dentistry-Health & Safety	Bart Johnson
Dentistry-Clinic Services	Richard McCoy
Dentistry-Faculty Council	Jeffrey Rubenstein
Asian Languages & Literature	William G. Boltz
Drama	Sarah Nash Gates
Ecosystem Sciences	David A. Manuwal
Electrical Engineering	Howard Chizeck
Endontics [Endodontics]	Gerald Glickman
Environmental Health	David Kalman
Evans School of Public Affairs	Marc Lindenberg
Oral Medicine	Edmond Truelove
Medical Education	Fred Wolf
Anesthesiology	Frederick Cheney
Nursing	Nancy Woods
Pediatrics	F. Bruder Stapleton
Speech Communication	G. F. Philipsen
Forest Resources-All Faculty	Bruce Bare
Geography [Geography]	James W. Harrington
Geriatrics	Sabine Wilke
Graduate School-Council	John Slattery
Graduate School-Steering Committee	Peter K. Domoto
Harborview-Executive Team	
Harborview-COO Leadership	
Harborview-Board	
Harborview-Board Educational	
Harborview-Finance Committee	
Harborview-Executive Committee	

MISC.

Harborview-Health Care Committee	
Harborview-Joint Conference	
Harborview-Strategic Planning	
Harborview-Facilities Ad Hoc	
History	Robert Stacey
Immunology	Christopher Wilson
Information School	Michael Eisenberg
Institutional Animal Care & Use	Walter Neary
Joint Medical Centers Personnel	John Coulter
Landscape Architecture	Lain M. Robertson
Law	W. H. Knight, Jr.
Maternal & Child Health	Frederick Connell
Marine Affairs	Marc J. Hershman
Materials Science & Engineering	Rajendra K. Bordia
Mathematics	Ronald Irving
Mechanical Engineering	William R. D. Wilson
Medical History & Ethics	Wylie Burke
Middle East Center	Ellis Goldberg
Near Eastern Languages & Civilization	Michael Williams
OB/GYN	David Eschenbach
Oceanography	Bruce Frost
Orthodontics	Gregory J. King
Otolaryngology	Ernest Waymuller, Jr.
Pathobiology	Kenneth Stuart
Pediatric Dentistry	Peter K. Domoto
Periodontics	Murray R. Robinovitch
Pharmacy-Curriculum	Jacqueline Gardner
Pharmacy-Executive	Sid Nelson
Pharmacy-Faculty	Danny D. Shen
Philosophy	Kenneth Clatterbaugh
Physics	David Boulware
Psychiatry-HMC	Peter Roy Byrne
Psychiatry-Advisory	Richard Veith
Psychiatry-Faculty	Ed Walker
Psychiatry-Clinical Services	John O'Laughlen
Psychiatry-CHRMC Faculty	Elizabeth McCauley
Prosthodontics	L. Brian Toolson
Public Health-Executive Committee	Patricia Wahl
Radiology	Albert Moss
Scandinavian Studies	Terje I. Leiren

Sociology	Robert Crutchfield
Psychosocial & Community Health	M. Salazar
Rehabilitation Medicine	Lawrence R. Robinson
Restorative Dentistry	Richard McCoy
Surgery	Carlos A. Pellegrini
University Human Resources	Weldon Ihrig
University Facilities	Norm Arkans
Tacoma-Arts & Sciences	Bill Richardson
Tacoma-Building & Facilities Use	Gary Comfort
Tacoma-Business	Patricia Fandt
Tacoma-Computing & Software	Larry Crum
Tacoma-Education	Ginger MacDonald
Tacoma-Faculty Assembly	Richard Stackman
Tacoma-Nursing	Marjorie Dobratz
Tacoma-RAPP	Jack Nelson
Tacoma-Social Work	Marcie Lazzari
Tacoma-Urban Studies	Brian Coffey
Urology-UWMC	William Ellis
Urology-Faculty	Paul Lange
Women's Studies	Judith Howard
Zoology	John Wingfield
Forest Resources-Management & Engineering	Rick Gustafson
Medical Center-Academic Board	Boh Dickey
Transition School-Faculty	Nancy Sisko
Student Bar Association	Ishbel Dickens
Speech & Hearing Sciences	Caol Stoel-Gammon
GPSS-Executive	David Nixon
ASUW-Finance & Budget	Nick Hamilton
GPSS-Finance & Budget	

MISC.

WSR 02-03-081
NOTICE OF PUBLIC MEETINGS
OFFICE OF THE
INTERAGENCY COMMITTEE
 (Interagency Committee for Outdoor Recreation)
 [Memorandum—January 14, 2002]

The Interagency Committee for Outdoor Recreation (IAC) will meet Thursday, February 28, and Friday, March 1, 2002, in Room 172 of the Natural Resources Building in Olympia.

The draft agenda for this meeting includes a planning workshop on Thursday from 10:00 a.m. until 2:00 p.m. Informational items include management reports and an update on legislative issues. Action items may include: Pre-

approval for the Washington wildlife and recreation program (WWRP) local parks - 2nd year list; NOVA education and enforcement category 2nd year list approval; NOVA plan review and publication process; consent calendar policy; and, adoption of land and water conservation fund (LWCF) program guidelines.

If you plan to participate or have materials for committee review, please submit information to IAC no later than February 7, 2002. This will allow for distribution to committee members in a timely fashion.

IAC public meetings are held in locations accessible to people with disabilities. Arrangements for individuals with hearing or visual impairments can be provided by contacting IAC by February 10 at (360) 902-3000 or TDD (360) 902-1996.

WSR 02-03-082

**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed January 15, 2002, 4:44 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 02-01 MAA.
Subject: Federal upper limits (FUL) for multisource drugs.

Effective Date: Dates of service on and after January 22, 2002.

Document Description: The purpose of this memorandum is to give enrolled pharmacy providers revised federal upper limit (FUL) reimbursement rates for the Medical Assistance Administration's (MAA) prescription drug program. The rates are effective for dates of service on and after January 22, 2002.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordina-

tor, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, 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 8, 2002

E. A. Myers, Manager
Rules and Publications Section

WSR 02-03-083

**NOTICE OF PUBLIC MEETINGS
COMMISSION ON ADVANCED
TUITION PROGRAM**

(Guaranteed Education Tuition Program)
[Memorandum—December 28, 2001]

In accordance with RCW 28B.95.020 and WAC 14-276-030, the Advanced College Tuition Program, known as Guaranteed Education Tuition Program, established the following committee meeting schedule:

January 23, 2002

March 12, 2002

July 16, 2002

September 17, 2002

The meetings begin at 2 p.m. unless public notice is given prior to the meeting in question establishing a different starting time.

If anyone wishes to request disability accommodations, notice should be given to the Guaranteed Education Tuition Program at least ten days in advance of the meeting in question. Notice may be given by any of the following methods: Voice (360) 753-7860, TDD (360) 753-7809, or fax (360) 704-6260.

WSR 02-03-101

AGENDA

HEALTH CARE AUTHORITY

[Filed January 18, 2002, 4:23 p.m.]

**Washington State Health Care Authority
Melodie Bankers, Rules Coordinator, (360) 923-2728**

January 31, 2002, Semiannual Rule-Making Agenda

Approximate Preproposal 1. Date 2. Subject Area 3. Contact/Telephone Number	Purpose of the Rule Why is this Significant?	Rule(s) Mandate	Other Agencies Who may have Interest in the Subject of Rule(s)
1. December 19, 2001 2. WAC 182-25-020 and 182-25-090 3. Rosanne Reynolds, (360) 923-2948	Clarification regarding notice of policy changes affecting premiums and nonpayment due to a check that cannot be processed, to avoid misinterpretation.	No mandate.	

MISC.

1. December 19, 2001 2. WAC 182-25-040 and 182-25-085 3. Rosanne Reynolds, (360) 923-2948	Revisions to add criteria for selecting accounts for recertification and imposing penalties for subsidy overpayments that are the result of fraud or intentional misrepresentation of information.	No mandate.	
1. December 31, 2001 2. Chapter 182-08 WAC 3. Barbara Scott, (360) 923-2642	Addition of a new rule that establishes a process for notification and termination of coverage for PEBB employer groups that does not resolve a delinquent account.	No mandate.	Political subdivisions, K-12 school districts and educational service districts that participate in the PEBB program.
1. February 2002 2. WAC 182-25-040 3. Rosanne Reynolds, (360) 923-2948	Possible revisions to establish a mandatory renewal period for basic health enrollees, which would replace the current recertification process.	No mandate.	DSHS Medical Assistance Administration.
1. March 2002 2. WAC 182-25-010 Definition of income 3. Rosanne Reynolds, (360) 923-2948	Possible revisions to definition of income to simplify processes and ensure that basic health subsidies are based on an accurate reflection of the enrollee's income.	No mandate.	DSHS Medical Assistance Administration.

Melodie Bankers
Rules Coordinator

WSR 02-03-103
NOTICE OF PUBLIC MEETINGS
CRIMINAL JUSTICE
TRAINING COMMISSION
[Memorandum—January 16, 2002]

2002 MEETING DATES

The Washington State Criminal Justice Training Commission is scheduled to meet on the following dates:

- March 13
- June 12
- September 11
- December 11

All meetings are scheduled to begin at 10:00 a.m. Meetings are held at the Washington State Criminal Justice Training Commission, 19010 First Avenue South, Seattle, WA 98148.

Contact: Darlene Tangedahl, phone (206) 835-7337, e-mail dtangedahl@cjtc.state.wa.us.

WSR 02-03-110
DEPARTMENT OF ECOLOGY
[Filed January 22, 2002, 12:36 p.m.]

Ecology Schedules Workshops and Hearings for Aquatic Pest Control Permits

Draft Review of National Pollutant Discharge Elimination System (NPDES) Permits to begin February 6, 2002.

Ninth Circuit Decision

In March 2001, the Ninth Circuit Court found that applications of aquatic pesticides were subject to Clean Water Act provisions. Ecology had been providing oversight for many of these applications though [through] administrative orders; they will now be covered by NPDES permits.

Permit Development

Ecology is developing several draft general permits and one individual permit to cover aquatic pesticide applications in the state. Burrowing shrimp control on oyster beds will be given coverage in an individual permit. The proposed general permits will provide coverage for:

- Irrigation system treatments
- Mosquito control
- Noxious weed control in wetlands, shorelines, lakes and rivers

General permits for nuisance plant control and a fish management are also being developed but will not be ready for draft review until this summer.

Workshops and Hearings Scheduled

Ecology staff will provide an overview of the proposed permit documents at the workshops, which will be held the first hour of the time allotted. Public hearings will immediately follow the workshops. The last scheduled hearing for each permit will mark the last day of the public review period for that permit.

March 8 1:30 p.m.	Oyster Growers Permit Workshop/Hearing, South Bend Commissioner's Meeting Room, 1216 West Robert Bush Drive	South Bend
March 11 1:30 p.m.	Noxious Weed Control Permit Workshop/Hearing, Ecology Central Regional Office, 15 West Yakima Avenue, Suite 200, Seafoam/Waterfall Room	Yakima
March 12 9:00 a.m.	Mosquito Control Permit Workshop/Hearing, Hal Holmes Community Center, 201 North Ruby, West Room	Ellensburg
March 12 1:30 p.m.	Irrigation System Permit Workshop/Hearing, Hal Holmes Community Center, 201 North Ruby, West Room	Ellensburg
March 14 1:30 p.m.	Noxious Weed Control Permit Workshop/Hearing, Ecology Headquarters Building, ROA 34-36, 300 Desmond Drive	Lacey
March 25 1:30 p.m.	Noxious Weed Control Permit Workshop/Hearing, Spokane Shadle Library, 2111 West Wellesley	Spokane

MISC.

Permit Fees

Permit fees are required for all NPDES permits. Fees are set through rule and we are revising our fee rule. For fee rule updates see ecology webpages: http://www.ecy.wa.gov/programs/wq/permits/permit_fees/index.htm.

For Copies of Permit Documents and Information

For updates on aquatic pest control and permit copies permits please visit ecology webpages: <http://www.ecy.wa.gov/programs/wq/herbicides/index.html>. For hardcopies of the permits and information about the discharge permit process for aquatic pesticides, please contact Kathleen Emmett, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6478, fax (360) 407-6426, e-mail kemm461@ecy.wa.gov.

WSR 02-03-112

**NOTICE OF PUBLIC MEETINGS
HEALTH CARE AUTHORITY
(Public Employees Benefits Board)**
[Memorandum—January 17, 2002]

2002 Meeting Schedule

All meetings are held on Tuesdays.

January 29, 2002

Health Care Authority
1:00 - 3:30 p.m.
676 Woodland Square Loop S.E.
Lacey, WA

March 19, 2002

Health Care Authority
1:00 - 3:30 p.m.
676 Woodland Square Loop S.E.
Lacey, WA

April 23, 2002

Health Care Authority
1:00 - 3:30 p.m.
676 Woodland Square Loop S.E.
Lacey, WA

May 21, 2002

1:00 - 3:30 p.m.
676 Woodland Square Loop S.E.
Lacey, WA

July 30, 2002

Location: TBA

August 6, 2002

Location: TBA

October 22, 2002 (Planning Session Retreat)

Location: TBA

November 26, 2002

Telephone

If you are a person with a disability and need a special accommodation, please contact Shelley Westall at (360) 923-2829.

WSR 02-03-113

**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed January 22, 2002, 4:01 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 02-02 MAA.
Subject: FQHC/RHC enhancement payments or HO, CHIP, and BH+ clients.

Effective Date: Dates of service on and after February 1, 2002.

Document Description: **Effective with dates of service on and after February 1, 2002**, the Medical Assistance Administration is implementing a new enhancement payment process for Healthy Options (HO), Children's Health Insurance Program (CHIP), and Basic Health Plus (BH+) clients who receive services at Federally Qualified Health Centers (FQHC) and Rural Health Clinics (RHC) that are contracted with Healthy Options managed care plans. This memorandum discusses the specific of the new enhancement payment process.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, 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 18, 2002

E. A. Myers, Manager
Rules and Publications Section

WSR 02-03-114

**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed January 22, 2002, 4:02 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Billing Instructions.
Subject: Nondurable medical supplies and equipment (MSE).

Effective Date: February 2002.

Document Description: These are billing instructions for nondurable medical supplies and equipment providers to use when billing medical assistance eligible clients. Included in this document are definitions, client eligibility, general program/billing information, and claim form instructions.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov> (click on Billing Instructions link), TDD 1-800-848-5429, fax (360) 586-9727, e-mail <mailto:sullikm@dshs.wa.gov>.

January 18, 2002

E. A. Myers, Manager
Rules and Publications Section

WSR 02-03-121
NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY

[Memorandum—January 23, 2002]

EASTERN WASHINGTON UNIVERSITY

BOARD OF TRUSTEES

January 25, 2002

Executive Session at 12:00 p.m.

Open Public Meeting at 1:15 p.m.

PUB 263-5-7

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.

Washington State Department of Agriculture
Semiannual Rules Development Agenda
January 1, 2002 - June 30, 2002
P.O. Box 42560, Olympia, WA 98504-2560

WSR 02-03-122

NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE UNIVERSITY

[Memorandum—January 15, 2002]

The Washington State University board of regents has moved meeting dates of its regularly scheduled meetings in 2002. The meeting of June 28 has been rescheduled to June 14. This meeting will also be held at WSU Vancouver. The October 4 meeting has been rescheduled to October 11, 2002. The updated 2002 schedule follows:

January 25, 2002	Pullman
March 15, 2002	Tri-Cities
May 10, 2002	Pullman
June 14, 2002	Vancouver
September 6, 2002	Pullman
October 11, 2002	Pullman
November 22, 2002	Pullman

Inquiries about the meeting can be directed to the WSU President's Office, (509) 335-6666.

WSR 02-03-126

AGENDA

DEPARTMENT OF AGRICULTURE

[Filed January 23, 2002, 9:44 a.m.]

Following is the Department of Agriculture's semiannual rules development agenda, which is being sent to you in compliance with RCW 34.05.314.

If you have any questions, please call me at (360) 902-1802 or e-mail George Huffman at ghuffman@agr.wa.gov.

WAC Number	Rule Title	Agency Contact	CR-101	Tentative Timeline CR-102	CR-103	Subject of Rule Making
Chapter 16-321 WAC	Grass sod— Certification standards	Mary Toohey Assistant Director Lab Services Division Phone (360) 902-1907	2-27-01	3-20-02	5-31-02	Update sod certification program rules to reflect current industry and program practices, scientific knowledge and statutory requirements. Also, rules will be rewritten in clear language and an easier to read format.
Chapter 16-324 WAC	Rules for the certification of seed potatoes	Mary Toohey Assistant Director Lab Services Division Phone (360) 902-1907	1-23-02	3-20-02	5-31-02	To offset the affects of inflation and maintain the level of service desired by the program and expected by industry, fee increases limited to the amount allowed by the OFM fiscal growth rate factor will be proposed.

MISC.

WAC Number	Rule Title	Agency Contact	CR-101	Tentative Timeline CR-102	CR-103	Subject of Rule Making
Chapter 16-325 WAC	Seed potato isolation district	Mary Toohey Assistant Director Lab Services Division Phone (360) 902-1907	10-3-01	To be determined	To be determined	Because of increased competition for suitable seed potato ground within the current isolation district in Whatcom County, the rules will be amended to expand current district boundaries giving growers access to additional ground on which to grow certified seed potatoes. The rules will be updated to reflect current industry practices and rewritten in a clear and readable format.
WAC 16-470-400 through 16-470-440	Chestnut pest quarantine	Mary Toohey Assistant Director Lab Services Division Phone (360) 902-1907	8-23-00	To be determined	To be determined	These rule sections will be updated to reflect statutory changes, current industry conditions, new scientific knowledge and current program practices. Also, they will be rewritten in a clear and readable format.
Chapter 16-484 WAC	Potato Virus Y-N quarantine	Mary Toohey Assistant Director Lab Services Division Phone (360) 902-1907	12-19-01	To be determined	To be determined	In response to industry requests, WSDA is evaluating whether Washington state should amend existing rules to participate in the USA/Canada PVY management plan. Under this plan, samples from lower-generation seed potato lots would be tested for PVY each year. WSDA would also prohibit the importation of seed potatoes from nonparticipating states.
Chapter 16-695 WAC	Rules related to ginseng management	Mary Toohey Assistant Director Lab Services Division Phone (360) 902-1907	10-3-01	To be determined	To be determined	To offset the affects of inflation and maintain the level of service desired by the program and expected by industry, fee increases limited to the amount allowed by the OFM fiscal growth rate factor will be proposed.
New	Blueberry planting stock certification	Mary Toohey Assistant Director Lab Services Division Phone (360) 902-1907	1-23-01	3-20-02	5-31-02	Rules regulating the certification of blueberry planting stock are needed to enable the industry to combat the spread of plant pests and export planting stock overseas.
Pesticide Management Division						
WAC 16-228-1231	State restricted use pesticides for distribution by licensed pesticide dealers and for use by certified applicators only	Ann Wick Program Manager Pesticide Management Division Phone (360) 902-2051		11-9-01 Expedited Rule Making		Corrects an inaccurate citation in WAC 16-228-1231(3) and a typographical error in WAC 16-228-1231(2).

MISC.

WAC Number	Rule Title	Agency Contact	CR-101	Tentative Timeline CR-102	CR-103	Subject of Rule Making
WAC 16-228-2000 through 16-228-2040	Wood destroying organisms	Cliff Weed Program Manager Pesticide Compliance Phone (360) 902-2036	2-27-01	5-02	To be determined	Amend rules related to wood destroying organism inspections to provide greater clarity to the regulated industry and greater protection to consumers.
WAC 16-229-010	Definitions	Cliff Weed Program Manager Pesticide Compliance Phone (360) 902-2036	8-22-01	5-02	To be determined	Amend the current definition of pesticide temporary field storage containers to allow containers of more than 2,500 gallons.
New	Clopyralid	Cliff Weed Program Manager Pesticide Compliance Phone (360) 902-2036	9-26-01	3-02	To be determined	New rules may be proposed placing special restrictions on pesticides containing the active ingredient clopyralid. The restrictions may apply to both agricultural and nonagricultural pesticides containing clopyralid.
Food Safety, Animal Health and Consumer Services Division						
Chapter 16-89 WAC	Sheep and goat scrapie disease control	Robert W. Mead, DVM Food Safety, Animal Health and Consumer Services Phone (360) 902-1881	12-19-01	To be determined	To be determined	In order for Washington state to maintain its status as a complaint [compliant] state, the state scrapie rules must be amended by January 1, 2003 to remain in compliance with recently adopted federal rules.
Chapter 16-101X WAC	Dairy penalty matrix	Claudia Coles Program Manager Food Safety, Animal Health and Consumer Services Phone (360) 902-1905	3-21-00	To be determined	To be determined	Amend the chapter to include the assessment of civil penalties as an equivalent penalty action to degrades (lowering in grade from A to C) for violations of chapter 15.36 RCW. The proposed amendments will encourage compliance with dairy regulations, streamline the penalty process, bring WSDA enforcement strategies in line with interstate requirements, and reduce the burden on the dairy industry when milk must be rerouted and often disposed as a result of the degrade action.

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WAC Number	Rule Title	Agency Contact	CR-101	Tentative Timeline CR-102	CR-103	Subject of Rule Making
Chapter 16-154 WAC	Organic crop production standards	Miles McEvoy Organic Food Program Manager Food Safety, Animal Health and Consumer Services Phone (360) 902-1924	6-28-01	1-23-02	To be determined	WSDA is revising the organic standards and certification procedures in order to comply with the national organic program, which became effective April 21, 2001. All organic producers and handlers must meet the requirements of the national organic program by October 21, 2002. WSDA is planning on adopting the national organic program in Washington state. In part, the department will accomplish this by repealing chapters 16-154, 16-156, 16-158, 16-162 and 16-164 WAC and combining their requirements into a new chapter 16-157 WAC.
Chapter 16-156 WAC	Organic producer and transition to organic producer certification					
Chapter 16-158 WAC	Standards for the certification of processors of organic food					
Chapter 16-162 WAC	Animal production standards for organic meat and dairy products					
Chapter 16-164 WAC	Standards for the handlers of organic food					
Chapter 16-157 WAC	Organic food standards and certification	Miles McEvoy Organic Food Program Manager Food Safety, Animal Health and Consumer Services Phone (360) 902-1924	6-28-01	1-23-02	To be determined	A new WAC chapter combining the requirements of chapters 16-154, 16-156, 16-158, 16-162 and 16-164 WAC and amending those requirements to comply with national organic program requirements.
Chapter 16-160 WAC	Registration of materials for organic food production	Miles McEvoy Organic Food Program Manager Food Safety, Animal Health and Consumer Services Phone (360) 902-1924	6-28-01	To be determined	To be determined	The department is planning on adopting the national organic program in Washington state and chapter 16-160 WAC needs to be amended to comply with the national program.
Commodity Inspection Division						
WAC 16-403-141	Red Delicious, Delicious, Golden Delicious—Minimum soluble solids	Jim Quigley Program Manager Commodity Inspection Division Phone (360) 902-1883	10-3-01	To be determined	To be determined	Amend the section to increase soluble solids for Red Delicious and Delicious varieties of apples from 10 to 11%.
WAC 16-403-142	Red Delicious, Delicious, Golden Delicious—Minimum firmness	Jim Quigley Program Manager Commodity Inspection Division Phone (360) 902-1883	10-3-01	To be determined	To be determined	Amend section to establish firmness standards of eleven pounds for Gala and Jonagold apples.

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WAC Number	Rule Title	Agency Contact	CR-101	Tentative Timeline CR-102	CR-103	Subject of Rule Making
Chapter 16-449 WAC	Washington controlled atmosphere storage requirements for winter pears	Jim Quigley Program Manager Commodity Inspection Division Phone (360) 902-1883	7-10-00	To be determined	To be determined	Combine the three chapters into one chapter containing the controlled atmosphere requirements for fruits and vegetables.
Chapter 16-459 WAC	Controlled atmosphere storage					
Chapter 16-690 WAC	Fruit storage					
WAC 16-303-340	Seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum, and small grains	Graydon Robinson WSDA Seed Program Phone (509) 225-2630	10-24-01	12-19-01	2-20-02	To offset the affects of inflation and maintain the level of service desired by the program and expected by industry, fee increases limited to the amount allowed by the OFM fiscal growth rate factor will be proposed.
WAC 16-319-041	Application for certification of forest reproductive material	Graydon Robinson WSDA Seed Program Phone (509) 225-2630	10-24-01	12-19-01	2-20-02	To offset the affects of inflation and maintain the level of service desired by the program and expected by industry, fee increases limited to the amount allowed by the OFM fiscal growth rate factor will be proposed.
Chapter 16-303 WAC	Seed assessment, fees for seed services and seed certification	Graydon Robinson WSDA Seed Program Phone (509) 225-2630	1-23-02	4-3-02	6-30-02	To offset the affects of inflation and maintain the level of service desired by the program and expected by industry, fee increases limited to the amount allowed by the OFM fiscal growth rate factor will be proposed.
Chapter 16-303 WAC	Seed assessment, fees for seed services and seed certification	Graydon Robinson WSDA Seed Program Phone (509) 225-2630	1-23-02	4-3-02	7-1-02	To offset the affects of inflation and maintain the level of service desired by the program and expected by industry, fee increases limited to the amount allowed by the OFM fiscal growth rate factor will be proposed.

George Huffman
Rules Coordinator

MISC.

WSR 02-03-129
OFFICE OF THE
INSURANCE COMMISSIONER

[Filed January 23, 2002, 10:15 a.m.]

In the Matter of the Disclaimer of Control in relation to the Acquisition of)
Federated American Insurance Co.,) No. G-02-04
National Merit Insurance Co., Uni-)
gard Insurance Company, and Uni-) **NOTICE OF HEAR-**
gard Indemnity Company, Autho-) **ING**
ri- zed insurance companies)

TO: Barbara Allan Shickich
Riddell Williams P.S.
1001 Fourth Avenue Plaza, Suite 4500
Seattle, WA 98145-1065
(Counsel for BZ Group)

William M Clumper
Unigard
15805 NE 24th Street
Bellevue, WA 98008-2409

The Credit Suisse Group is the ultimate parent of Federated American Insurance Company, National Merit Insurance Company, Unigard Insurance Company and Unigard Indemnity Company, all Washington domestic insurance companies. On or about May 19, 2000 BZ Gruppe Holding Aktiengesellschaft, a Swiss Corporation acquired additional shares of Credit Suisse Group, which resulted in BZ Gruppe holding 10.26% of the voting rights of Credit Suisse Group. On October 24, 2000 BZ Gruppe filed a disclaimer of control with the Insurance Commissioner of the State of Washington.

RCW 48.31B.005 defines control as the power, direct or indirect, of any entity to direct the management and policies of an insurer. That statute creates a presumption of control whenever any entity acquires ten percent or more of the voting power of an insurer. In its disclaimer of control BZ Gruppe stated that it had no intention of exercising control over the Credit Suisse Group. Chapter 48.31B RCW requires certain specific filings and approval by the Commissioner prior to the acquisition of control of a Washington domestic insurer.

YOU ARE HEREBY NOTIFIED that a hearing will be held commencing **Thursday, February 21, 2002, at 10:00 a.m. Pacific Standard Time** in the 2nd Floor Conference Room of the Insurance Commissioner's Office at 420 Golf Club Road, Lacey, Washington 98503, to consider all appropriate action concerning the acquisition of in excess of 10% of the voting rights of Credit Suisse Group the ultimate parent of Federated American Insurance Company, National Merit Insurance Company, Unigard Insurance Company and Unigard Indemnity Company by BZ Gruppe Holding Aktiengesellschaft.

The hearing will be held under the authority granted the Commissioner by Chapter 48.04 RCW, RCW 48.31B.015 and RCW 48.31B.025(11).

The basic facts relied upon are those set forth in the Disclaimer of Control filed with the Commissioner. The complete Disclaimer of Control will be made part of the record of the hearing.

The Commissioner has not taken, and will not take, any position on this matter prior to entry of the hearing order.

All parties may be represented at the hearing. They may examine witnesses and fully respond and present evidence and argument on all issues involved, as required by the Administrative Procedure Act. The hearing will be governed by the Administrative Procedure Act, Chapter 34.05 RCW, and the model rules of procedure contained in Chapter 10-08 WAC. A party who fails to attend or participate in any stage of the proceeding may be held in default in accordance with Chapter 34.05 RCW. The Commissioner will be represented by James E. Tompkins, Assistant Deputy Commissioner.

Deputy Insurance Commissioner James T. Odiorne has been designated to hear and determine this matter. His address is Office of the Insurance Commissioner, Post Office Box 40259, Olympia, Washington 98504-0259. His telephone number is (360) 407-0420.

ENTERED AT OLYMPIA, WASHINGTON, this 22th day of January, 2002.

Mike Kreidler
Insurance Commissioner

By:
JAMES T. ODIORNE, CPA, JD
Deputy Insurance Commissioner
Company Supervision Division

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
- X = Expedited rule making
- 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 #
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16-303-210	PREP	02-03-127	36- 12-320	AMD	02-03-069	132Z-116-060	NEW-P	02-03-089
16-303-230	PREP	02-03-127	36- 12-330	REP	02-03-069	132Z-116-070	NEW-P	02-03-089
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16-303-330	PREP	02-03-127	36- 12-465	AMD	02-03-069	132Z-116-210	NEW-P	02-03-089
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36- 12-020	AMD	02-03-069	132H-120-030	AMD-P	02-03-106	132Z-116-260	NEW-P	02-03-089
36- 12-030	AMD	02-03-069	132H-120-050	AMD-P	02-03-106	132Z-116-270	NEW-P	02-03-089
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36- 12-050	AMD	02-03-069	132H-120-220	AMD-P	02-03-106	132Z-116-300	NEW-P	02-03-089
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36- 12-070	AMD	02-03-069	132H-120-350	AMD-P	02-03-106	132Z-116-320	NEW-P	02-03-089
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36- 12-100	AMD	02-03-069	132H-120-420	AMD-P	02-03-106	132Z-116-410	NEW-P	02-03-089
36- 12-110	AMD	02-03-069	132H-120-440	AMD-P	02-03-106	137- 28	PREP	02-03-075
36- 12-120	REP	02-03-069	132H-120-450	AMD-P	02-03-106	180- 86-020	PREP	02-03-084
36- 12-130	AMD	02-03-069	132H-152-135	PREP	02-03-104	180- 86-055	PREP	02-03-084
36- 12-140	AMD	02-03-069	132H-410-010	NEW-P	02-03-107	192- 16-033	REP-E	02-03-074
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36- 12-190	AMD	02-03-069	132H-410-050	NEW-P	02-03-107	192- 16-045	REP-E	02-03-074
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36- 12-270	AMD	02-03-069	132Z-116-005	NEW-P	02-03-089	192-240-035	NEW-E	02-03-074
36- 12-280	AMD	02-03-069	132Z-116-010	NEW-P	02-03-089	192-240-040	NEW-E	02-03-074
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212- 12-300	NEW-E	02-03-060	296- 52-419	REP	02-03-125	296- 52-62010	NEW	02-03-125
212- 12-310	NEW-E	02-03-060	296- 52-421	REP	02-03-125	296- 52-62025	NEW	02-03-125
212- 12-320	NEW-E	02-03-060	296- 52-423	REP	02-03-125	296- 52-62030	NEW	02-03-125
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220- 56-36000L	REP-E	02-03-053	296- 52-552	REP	02-03-125	296- 52-65010	NEW	02-03-125
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232- 28-42500C	REP-E	02-03-052	296- 52-60055	NEW	02-03-125	296- 52-66030	NEW	02-03-125
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232- 28-61900L	REP-E	02-03-015	296- 52-60095	NEW	02-03-125	296- 52-67010	NEW	02-03-125
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296-52-67080	NEW	02-03-125	296-52-69110	NEW	02-03-125	308-125-200	AMD	02-03-012
296-52-67085	NEW	02-03-125	296-52-69115	NEW	02-03-125	315-20-010	AMD-C	02-03-108
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296-52-67095	NEW	02-03-125	296-52-69125	NEW	02-03-125	315-37-020	NEW-P	02-03-109
296-52-67100	NEW	02-03-125	296-52-700	NEW	02-03-125	315-37-030	NEW-P	02-03-109
296-52-67105	NEW	02-03-125	296-52-70005	NEW	02-03-125	315-37-040	NEW-P	02-03-109
296-52-67110	NEW	02-03-125	296-52-70010	NEW	02-03-125	315-37-050	NEW-P	02-03-109
296-52-67115	NEW	02-03-125	296-52-70015	NEW	02-03-125	315-37-060	NEW-P	02-03-109
296-52-67125	NEW	02-03-125	296-52-70020	NEW	02-03-125	315-37-070	NEW-P	02-03-109
296-52-67130	NEW	02-03-125	296-52-70025	NEW	02-03-125	315-37-080	NEW-P	02-03-109
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296-52-67170	NEW	02-03-125	296-52-70055	NEW	02-03-125	332-30-115	AMD-P	02-03-111
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296-52-67195	NEW	02-03-125	296-52-70080	NEW	02-03-125	332-30-171	NEW-P	02-03-111
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296-52-67210	NEW	02-03-125	296-52-710	NEW	02-03-125	356-18-100	AMD	02-03-061
296-52-67215	NEW	02-03-125	296-52-71015	NEW	02-03-125	356-26-040	AMD	02-03-062
296-52-67220	NEW	02-03-125	296-52-71020	NEW	02-03-125	356-26-130	AMD	02-03-063
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296-52-67230	NEW	02-03-125	296-52-71035	NEW	02-03-125	388-14A-2000	PREP	02-03-010
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296-52-67240	NEW	02-03-125	296-52-71045	NEW	02-03-125	388-14A-2080	PREP	02-03-010
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296-52-68010	NEW	02-03-125	296-52-71060	NEW	02-03-125	388-14A-3800	PREP	02-03-010
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296-52-68020	NEW	02-03-125	296-52-71075	NEW	02-03-125	388-14A-3810	PREP	02-03-010
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296-52-68040	NEW	02-03-125	296-52-71090	NEW	02-03-125	388-14A-4300	PREP	02-03-010
296-52-68045	NEW	02-03-125	296-52-71095	NEW	02-03-125	388-14A-4301	PREP	02-03-010
296-52-68050	NEW	02-03-125	296-52-71100	NEW	02-03-125	388-14A-4302	PREP	02-03-010
296-52-68055	NEW	02-03-125	296-52-71105	NEW	02-03-125	388-14A-4303	PREP	02-03-010
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296-52-68075	NEW	02-03-125	296-78-56501	AMD	02-03-124	388-14A-5525	AMD-P	02-03-096
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296-52-69005	NEW	02-03-125	296-150M-0049	NEW	02-03-048	388-15-001	NEW-P	02-03-118
296-52-69010	NEW	02-03-125	296-150M-0140	AMD	02-03-048	388-15-005	NEW-P	02-03-118
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296-52-69040	NEW	02-03-125	308-96A-101	PREP	02-03-086	388-15-025	NEW-P	02-03-118
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296-52-69080	NEW	02-03-125	308-124B-150	AMD	02-03-054	388-15-053	NEW-P	02-03-118
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388-15-135	NEW-P	02-03-118	390-20-125	AMD	02-03-018	434-236-060	AMD-P	02-03-133
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388-76-61510	AMD-P	02-03-117	415-02-130	AMD	02-03-120	434-236-090	AMD-P	02-03-134
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388-76-64015	NEW-P	02-03-117	415-10-080	AMD	02-03-120	434-236-180	AMD-P	02-03-133
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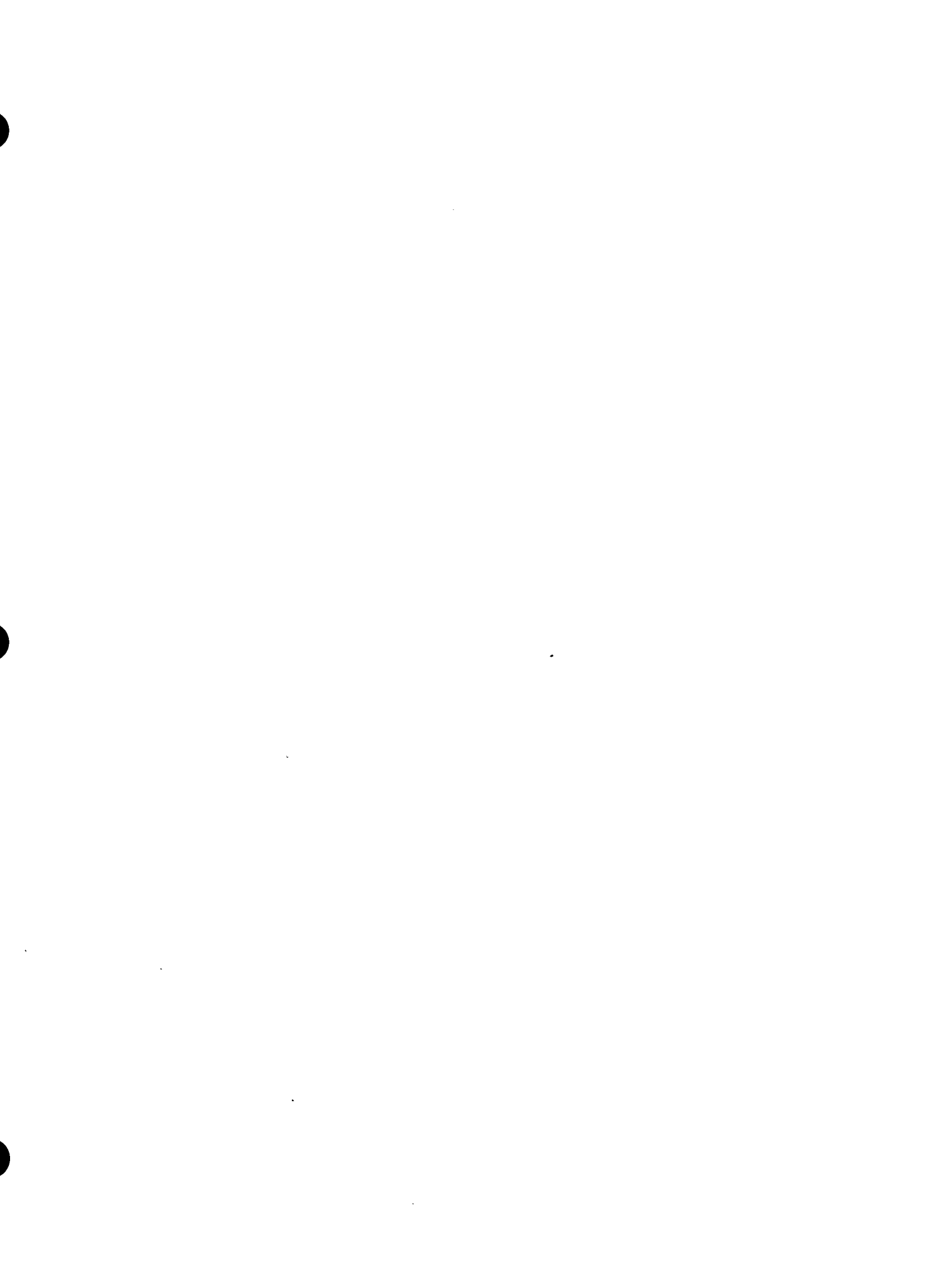
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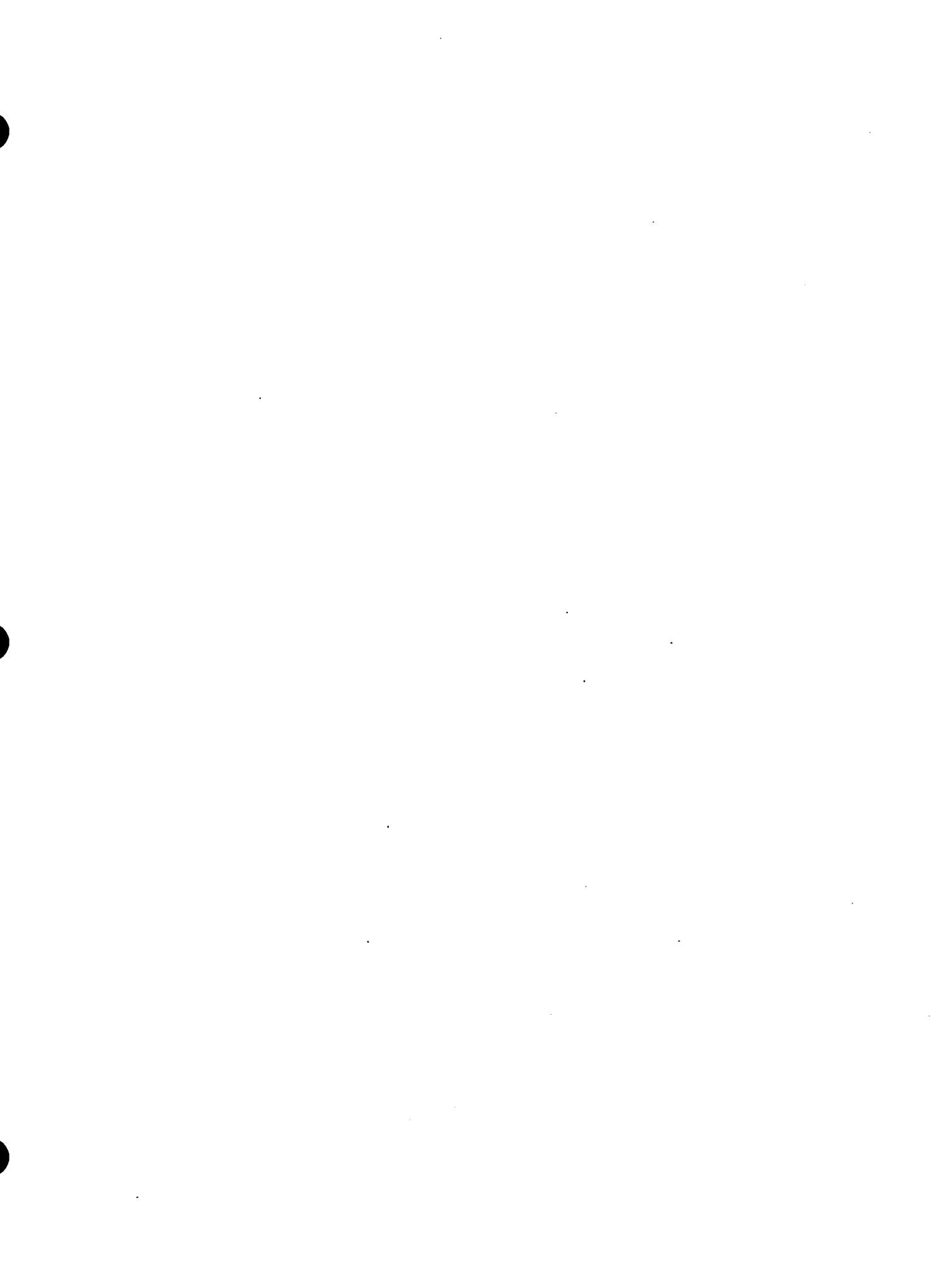












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