

Washington State Register

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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 April 2003 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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John G. Schultz
Chair, Statute Law Committee

Dennis W. Cooper
Code Reviser

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Chief Assistant Code Reviser

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Editor

Joyce Matzen
Subscription Clerk

STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following 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.

5. EDITORIAL CORRECTIONS

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

2002-2003
DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

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

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

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

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

⁴ A minimum of forty-five days is required between the distribution date of the Register giving notice of the expedited adoption and the agency adoption date. No hearing is required, but the public may file written objections. See RCW 34.05.230 and 1.12.040.

REGULATORY FAIRNESS ACT

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

Small Business Economic Impact Statements (SBEIS)

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

Mitigation

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

When is an SBEIS Required?

When:

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

When is an SBEIS Not Required?

When:

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

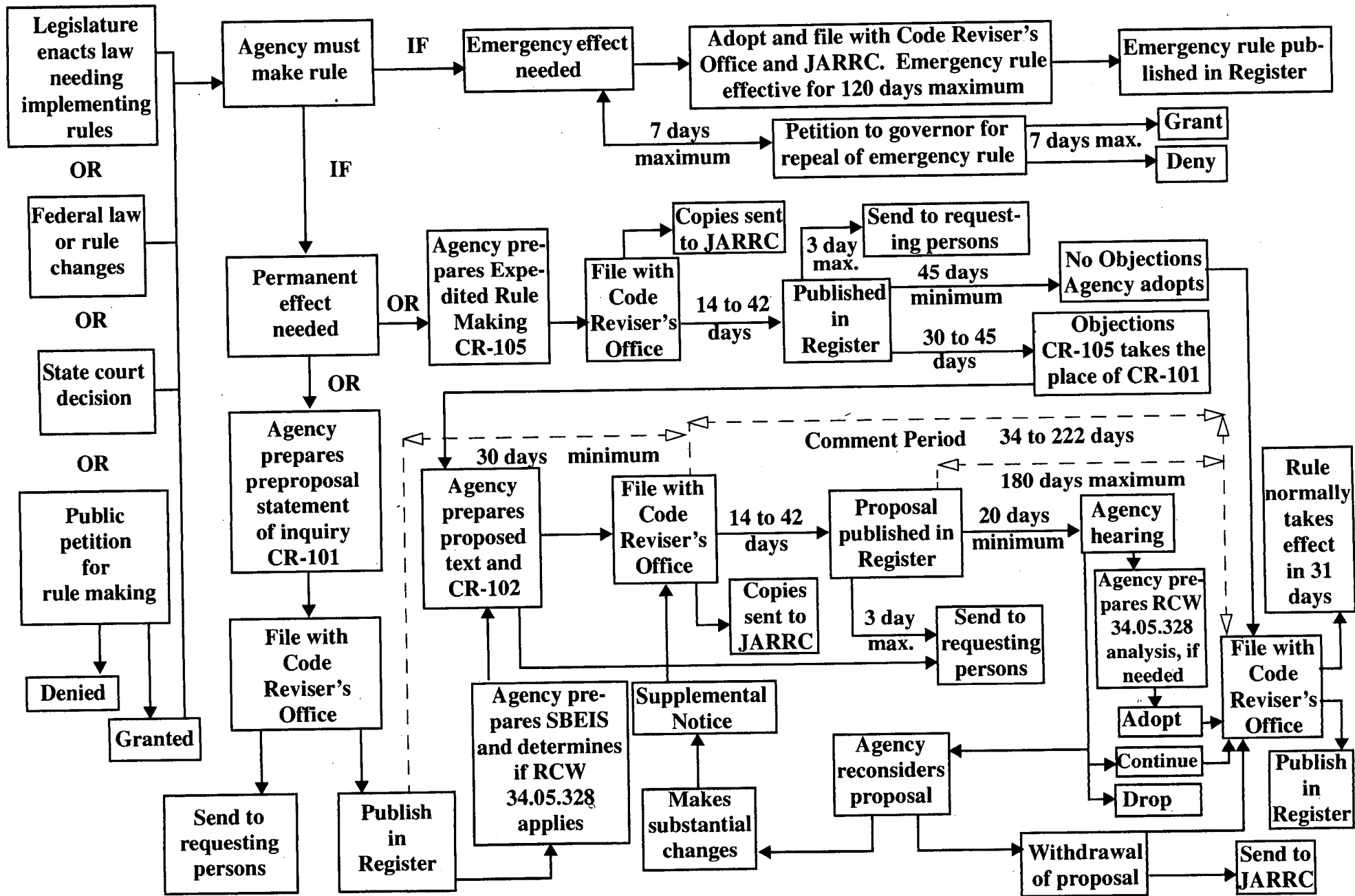
There is less than minor economic impact on business;

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

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

The rule is pure restatement of state statute.

RULE-MAKING PROCESS



WSR 03-07-004
PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION

[Filed March 6, 2003, 2:47 p.m.]

Subject of Possible Rule Making: WAC 180-79A-117
 Uniform expiration date.

Statutes Authorizing the Agency to Adopt Rules on this
 Subject: RCW 28A.410.010 and 28A.305.130.

Reasons Why Rules on this Subject may be Needed and
 What They Might Accomplish: To add language to grant an
 extension of normal teaching certificate lapse date for any
 teacher in military reserve status.

Process for Developing New Rule: Negotiated rule
 making; and early solicitation of public comments and rec-
 ommendations 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 pub-
 lication by sending written comments to Rules Coordinator,
 State Board of Education, P.O. Box 47206, Olympia, WA
 98504-7206, fax (360) 586-2357, TTY (360) 664-3631. For
 telephone assistance contact Larry Davis at (360) 725-6024.

March 6, 2003

Larry Davis
 Executive Director

WSR 03-07-005
PREPROPOSAL STATEMENT OF INQUIRY
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2003-02—Filed March 6, 2003,
 4:25 p.m.]

Subject of Possible Rule Making: The National Associ-
 ation of Insurance Commissioner[s] (NAIC) recently adopted
 in the 2001 commissioner's standard ordinary (CSO) mortal-
 ity tables. Commissioner Kreidler will consider rules regard-
 ing the NAIC model.

Statutes Authorizing the Agency to Adopt Rules on this
 Subject: RCW 48.02.060, 48.74.030, 48.76.050.

Reasons Why Rules on this Subject may be Needed and
 What They Might Accomplish: The 2001 CSO mortality
 table is a new mortality table developed by the American
 Academy of Actuaries to reflect changes in mortality since
 the development of the 1980 CSO table. The 1980 CSO table
 is the current mortality table; the 2001 table would provide a
 new minimum valuation standard of mortality for life insur-
 ance products. The new table addresses plans of insurance
 that have separate rates for nonsmokers and smokers. The
 new table addresses plans of insurance that have the same
 rates for males and females. The commissioner will review
 the new table and determine if it should be adopted and any
 changes are necessary for clarity or to fit within the Wash-
 ington regulatory scheme.

Other Federal and State Agencies that Regulate this Sub-
 ject and the Process Coordinating the Rule with These Agen-
 cies: No other federal or state agency regulates this subject.

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 pub-
 lication by contacting Kacy Scott, P.O. Box 40255, Olympia,
 WA 98504-0255, e-mail Kacys@oic.wa.gov, phone (360)
 725-7041, fax (360) 586-3109.

March 5, 2003

Mike Kreidler
 Insurance Commissioner

WSR 03-07-009
PREPROPOSAL STATEMENT OF INQUIRY
WASHINGTON STATE UNIVERSITY

[Filed March 7, 2003, 9:31 a.m.]

Subject of Possible Rule Making: Campus traffic and
 parking regulations—Vancouver.

Statutes Authorizing the Agency to Adopt Rules on this
 Subject: RCW 28B.30.150.

Reasons Why Rules on this Subject may be Needed and
 What They Might Accomplish: To reorganize, clarify and
 streamline existing parking regulations in accordance with
 board of regents directive.

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

Process for Developing New Rule: Reviewed internally
 before proposal.

Interested parties can participate in the decision to adopt
 the new rule and formulation of the proposed rule before pub-
 lication by contacting John Shaheen, Parking, Transportation
 and Visitor's Center, Public Safety Building, Washington
 State University, Pullman, Washington 99164. There will be
 a public hearing to permit comment on the proposed rule.
 There will also be an opportunity to provide written com-
 ments on the proposed rule.

March 3, 2004 [2003]

Kirsten Pauli
 Program Administrative Manager
 Administrative Rules Coordinator

WSR 03-07-010
PREPROPOSAL STATEMENT OF INQUIRY
WASHINGTON STATE UNIVERSITY

[Filed March 7, 2003, 9:32 a.m.]

Subject of Possible Rule Making: Campus traffic and
 parking regulations—Spokane.

Statutes Authorizing the Agency to Adopt Rules on this
 Subject: RCW 28B.30.150.

Reasons Why Rules on this Subject may be Needed and
 What They Might Accomplish: To reorganize, clarify and

streamline existing parking regulations in accordance with board of regents directive.

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

Process for Developing New Rule: Reviewed internally before proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting John Shaheen, Parking, Transportation and Visitor's Center, Public Safety Building, Washington State University, Pullman, Washington 99164. There will be a public hearing to permit comment on the proposed rule. There will also be an opportunity to provide written comments on the proposed rule.

March 3, 2004 [2003]

Kirsten Pauli
Program Administrative Manager
Administrative Rules Coordinator

WSR 03-07-011

**PREPROPOSAL STATEMENT OF INQUIRY
WASHINGTON STATE UNIVERSITY**

[Filed March 7, 2003, 9:33 a.m.]

Subject of Possible Rule Making: Campus traffic and parking regulations—Intercollegiate College of Nursing.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.30.150.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To reorganize, clarify and streamline existing parking regulations in accordance with board of regents directive.

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

Process for Developing New Rule: Reviewed internally before proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting John Shaheen, Parking, Transportation and Visitor's Center, Public Safety Building, Washington State University, Pullman, Washington 99164. There will be a public hearing to permit comment on the proposed rule. There will also be an opportunity to provide written comments on the proposed rule.

March 3, 2004 [2003]

Kirsten Pauli
Program Administrative Manager
Administrative Rules Coordinator

WSR 03-07-012

**PREPROPOSAL STATEMENT OF INQUIRY
WASHINGTON STATE UNIVERSITY**

[Filed March 7, 2003, 9:34 a.m.]

Subject of Possible Rule Making: Student conduct.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.30.150.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To clarify existing provisions of the student conduct code and to provide consistency in the alcohol/drug accountability policy.

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

Process for Developing New Rule: Reviewed internally before proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Dr. Elaine Voss, Washington State University, 360 Lighty Student Services Building, Washington State University, Pullman, Washington 99164. There will be a public hearing to permit comment on the proposed rule. There will also be an opportunity to provide written comments on the proposed rule.

March 3, 2004 [2003]

Kirsten Pauli
Program Administrative Manager
Administrative Rules Coordinator

WSR 03-07-013

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

[Filed March 7, 2003, 10:56 a.m.]

Subject of Possible Rule Making: Commercial fishing rules for fishers and receivers.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.12.047.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The ability to track catches in a timely manner affects the ability to manage for conservation and allocation requirements. Improvements in tracking and reporting are needed.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lisa Veneroso, (360) 902-2836, fax (360) 902-2158 or writing 600 Capitol Way North, Olympia, WA 98501-1091. Expected proposal filing on or after May 2, 2003.

March 7, 2003

Evan Jacoby
Rules Coordinator

WSR 03-07-031**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed March 11, 2003, 4:42 p.m.]

Subject of Possible Rule Making: Medicaid nursing facility payment system, chapter 388-96 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 74.46 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To clarify regulation by codifying current policies and practices, and editing previous codifications for substance and form. All sections will be reviewed and may be amended.

This CR-101 is a companion to the CR-101 to implement SHB 2242 filed with the code reviser on July 31, 2001, and published as WSR 01-16-136. The rules filed under the CR-102 will cover both CR-101s.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Centers for Medicare and Medicaid Services (CMS) of the United States Department of Health and Human Services (HHS). Within ninety days of the effective date of the rule revisions, the agency must submit a state plan amendment. The CMS will notify the agency of acceptance or rejection of the plan.

Process for Developing New Rule: The department welcomes public participation in developing and reviewing its Medicaid nursing facility payment regulations. If you would like to be personally notified when draft regulations are ready for review, please contact the staff person indicated below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending comments to Patricia Hague, fax (360) 725-2641, e-mail HaguePE@dshs.wa.gov, or write to ASDA/Office of Rates Management, P.O. Box 45600, Olympia, WA 98504-5600.

March 10, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-07-033**PREPROPOSAL STATEMENT OF INQUIRY****DEPARTMENT OF****FISH AND WILDLIFE**

[Filed March 12, 2003, 4:40 p.m.]

Subject of Possible Rule Making: Commercial fishing rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.12.047.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Current rules on aquatic farms do not provide an accounting mechanism or legal delivery method for embedded shellfish that are not private sector cultured aquatic products. An emerging commercial

fishery is occurring on these products and rules are needed to implement this harvest and sale.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lew Atkins, Fish Program, Assistant Director, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2651. Expected proposal filing on or after May 2, 2003.

March 12, 2003

Evan Jacoby
Rules Coordinator

WSR 03-07-034**PREPROPOSAL STATEMENT OF INQUIRY
UTILITIES AND TRANSPORTATION
COMMISSION**

[Docket No. TO-030288—Filed March 13, 2003, 9:30 a.m.]

Subject of Possible Rule Making: This rule making would consider developing a new chapter applicable to the economic regulation of hazardous liquid pipeline companies regulated as common carriers by the commission, including, but not limited to, financial reporting requirements.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 80.01.040, 80.04.160, 81.01.010, and 81.88-.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: There is currently no chapter of rules that addresses economic regulation of hazardous liquid pipeline companies. Such rules would facilitate the commission in carrying out its statutory powers and duties, and to respond promptly to rapidly changing regulatory, operational, economic, and consumer issues. To that end, staff proposes that the commission explore this topic, which is expected to result in consideration of rules that (among other potential subjects):

Require financial transaction reports twenty days prior to the transfer of cash, credit, or pecuniary interest when certain thresholds have been exceeded.

Require an annual subsidiary transaction report summarizing all transactions that occurred between the company and its subsidiaries during the preceding year.

Require an annual affiliated interest transaction report.

Clarify accounting system requirements.

Set out retention and preservation of records requirements.

Establish consumer rules.

Process for Developing New Rule: Agency study; and the commission will ask for initial written comments, and will provide the opportunity for participation in workshop-style sessions as well as opportunities for additional comments.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before pub-

lication by contacting the Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 South Evergreen Park Drive S.W., Olympia, WA, 98504-7250, phone (360) 664-1174, facsimile (360) 586-1150.

Interested persons may file written comments on the CR-101 by **Wednesday, April 9, 2003**. For specific information regarding opportunities for written comment and to ensure receipt of further information concerning this rule making, please see below.

A stakeholder workshop will be held **Thursday, April 10, 2003**, in Room 206 at the commission's headquarters, beginning at 9:30 a.m. until 4:30 p.m.

WRITTEN COMMENTS AND STAKEHOLDER WORKSHOP: Written comments may be submitted to the commission at the address given above and should be filed with the commission no later than **Wednesday, April 9, 2003**, for consideration at the **April 10, 2003, stakeholder workshop**.

Electronic copies. The commission requests that comments be provided in electronic format to enhance public access, for ease of providing comments, to reduce the need for paper copies, and to facilitate quotations from the comments. Comments may be submitted by electronic mail to the commission's records center at records@wutc.wa.gov. Please include:

- The docket number of this proceeding (TO-030288).
- The commenting party's name.
- The title and date of the comment or comments.

An alternative method for submitting comments may be by mailing/delivering an electronic copy on a 3 1/2 inch, IBM-formatted, high-density disk, in .pdf Adobe Acrobat format or in Word 97 or later. Include all of the information requested above. The commission will post on the commission's website all comments that are provided in electronic format. The website is located at <http://www.wutc.wa.gov/030288>. If you are unable to file your comments electronically or to submit them on a disk, the commission will always accept a paper document.

Opportunity for further comment is anticipated. Information about the schedule and other aspects of the rule making, including comments, will be posted on the commission's website as it becomes available. If you wish to receive further information on this rule making you may (1) call the commission's records center at (360) 664-1234, (2) e-mail the commission at records@wutc.wa.gov, or (3) mail written comments to the address above to the attention of Carole J. Washburn, Secretary. When contacting the commission, please refer to Docket No. TO-030288 to ensure that you are placed on the appropriate service list. Questions may be addressed to Kim Dobyms, (360) 664-1242 or e-mail at kdo-byms@wutc.wa.gov.

NOTICE:

TO CONTINUE RECEIVING NOTICES AND INFORMATION ABOUT THIS RULE MAKING — The commission wants to ensure its mailings are sent to persons who are interested in the topic and want to receive that information. **ANY PERSON WHO COMMENTS** will continue to receive notices and information. If you do not submit comments but wish to remain

on the mailing list for this rule making, please advise the records center by any one of the following methods: (1) Send a note with your name, address (or a copy of your mailing label), and telephone and fax numbers referencing Docket No. TO-030288, and the words "Please keep me on the mailing list"; or (2) e-mail your name, address, telephone and fax numbers, referencing Docket No. TO-030288, and the words "Please keep me on the mailing list" to records@wutc.wa.gov. Please note that all information in the mailings will be accessible through the commission's Internet website at <http://www.wutc.wa.gov/030288>. **THOSE PARTIES WHO DO NOT RESPOND MAY NOT RECEIVE FURTHER MAILINGS OR INFORMATION ON THE RULE MAKING.**

March 13, 2003
Carole J. Washburn
Secretary

WSR 03-07-038
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed March 13, 2003, 1:57 p.m.]

The Economic Services Administration (ESA) is requesting the withdrawal of a CR-101 Preproposal statement of inquiry, filed as WSR 01-23-064 on November 20, 2001.

Brian Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-07-040
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed March 13, 2003, 2:00 p.m.]

Subject of Possible Rule Making: The Department of Social and Health Services (DSHS) Division of Employment and Assistance Programs will amend WAC 388-410-0030 How does the department calculate and set up my food assistance overpayment?

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.-090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To correct a typographical error to the WAC reference in subsection (3), from WAC 388-468-0007 to 388-418-0007.

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

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. At a later

date, DSHS will file proposed rules with the Office of the Code Reviser with a notice of proposed rule making. A copy of the proposal 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 98504-4570, phone (360) 413-3074, fax (360) 413-3493, e-mail MCRAECA@DSHS.WA.GOV.

March 12, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-07-041

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Health and Rehabilitative Services Administration)

[Filed March 13, 2003, 2:02 p.m.]

Subject of Possible Rule Making: Inpatient evaluation and treatment facilities, WAC 388-865-0500 through 388-865-0565.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 71.05.560 and 71.34.800.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Mental Health Division is revising these rules to be consistent with rules being developed for residential treatment facilities by the Department of Health.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Department of Health. The Mental Health Division is participating with the DSHS Division of Alcohol and Substance Abuse and the Department of Health in a workgroup with community providers to coordinate development of these rules.

Process for Developing New Rule: An oversight committee consisting of representatives from the Department of Health and representatives from community residential treatment facilities being regulated by these rules will assist the department in rule development. All draft materials will be made available to constituents for a larger review audience. All comments will be taken into consideration for final rule development. Meetings are planned for April and May 2003. Additional meeting dates will be announced as they are determined.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kathy Burns Peterson, Mental Health Division, P.O. Box 45320, Olympia, WA 98504-5320, e-mail burnska@dshs.wa.gov, (360) 902-0843, fax (360) 902-0809.

March 7, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-07-042

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed March 13, 2003, 2:04 p.m.]

Subject of Possible Rule Making: The department's Division of Employment and Assistance Programs plans to amend WAC 388-452-0005 Do I have to be interviewed in order to get benefits?, as well as any related rules. The amendments will update program language, clarify when an interview is required for the Washington basic food program, and indicate when clients may have a telephone interview.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.500, 74.04.510, 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department must adopt rules to be consistent with federal regulations for food stamps. This revision is intended to update the language of department rules to clarify requirements for clients and department staff to assist in consistent statewide application of policy for the Washington basic food program.

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. Rules published in the Federal Register are incorporated into the United States Code of Federal Regulations. FNS also issues administrative notices to inform states of new program requirements that are not yet in the United States Code of Federal Regulations. DSHS incorporates these regulations and exercises state options 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. At a later date, DSHS will file proposed rules with the Office of the Code Reviser with a notice of proposed rule making. A copy of the proposal 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 John Camp, Program Manager, Division of Employment and Assistance Programs, Lacey Government Center, P.O. Box 454700, Olympia, WA 98504-4570, phone (360) 413-3232, fax (360) 413-3493, e-mail CAMPJX@DSHS.WA.GOV.

March 7, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-07-050**PREPROPOSAL STATEMENT OF INQUIRY
HORSE RACING COMMISSION**

[Filed March 14, 2003, 1:40 p.m.]

Subject of Possible Rule Making: To clarify/adjust the claiming process and procedure.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.16.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Outdated rules and the need to adjust the process and procedures for claiming.

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 Robert M. Leichner, Executive Secretary, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, phone (360) 459-6462, fax (360) 459-6461.

March 14, 2003

R. M. Leichner
Executive Secretary

WSR 03-07-062**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed March 14, 2003, 4:47 p.m.]

Subject of Possible Rule Making: Rules that will be required to be adopted as an outcome of the 2003 legislature's changes to pension law.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050(5) and statutes to be identified in bills.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Currently, the Department of Retirement Systems (DRS) anticipates that the 2003 legislature will pass several pension-related bills that will require DRS to quickly amend or repeal some of its existing rules and/or add new rules. Any rules proposed under this preproposal (CR-101) will be directly related to these anticipated pension bills.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: DRS will communicate with the Internal Revenue Service and the Washington State Department of Labor and Industries as needed in developing any WAC.

Process for Developing New Rule: DRS staff will work on the project, with the assistance of the Office of the Attorney General. The public is invited and encouraged to participate, as described below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. DRS encourages your active participation in the

rule-making process. Anyone interested in participating should contact the rules coordinator, below. After the rule(s) is drafted, DRS will file a copy with the Office of the Code Reviser with a notice of proposed rule making, and send a copy to everyone currently on the mailing list and anyone else who requests a copy. For more information on how to participate, please contact Merry A. Kogut, Rules Coordinator, Department of Retirement Systems, Mailstop 48380, P.O. Box 48380, Olympia, WA 98504-8380, voice (360) 664-7291, TTY (360) 586-5450, e-mail merryk@drs.wa.gov, fax (360) 753-3166.

March 12, 2003

Merry A. Kogut
Rules Coordinator

WSR 03-07-063**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed March 14, 2003, 4:48 p.m.]

Subject of Possible Rule Making: The 2003 legislature is considering a fallen heroes' survivor benefit bill (SB 5100, HB 1208). If passed, this bill would provide that pension payments to qualifying beneficiaries of public safety officers who died in the line of duty would not be subject to federal income tax, as provided in federal law. If passed, it may be necessary for DRS to make appropriate rule changes in LEOFF (chapter 415-104 WAC), PERS (chapter 415-108 WAC), and/or WSP (chapter 415-103 WAC).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050(5); new section in chapter 41.04 RCW (if the legislature passes SB 5100 or HB 1208).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Qualifications for who will be covered by the new law, a definition of "public safety officer," processes for tax documents, and other details may have to be covered by WAC if and when the legislature passes this bill.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: DRS will communicate with the Internal Revenue Service and the Washington State Department of Labor and Industries as needed in developing any WAC.

Process for Developing New Rule: The Department of Retirement Systems (DRS) staff will work on the project, with the assistance of the Office of the Attorney General. The public is invited and encouraged to participate, as described below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. DRS encourages your active participation in the rule-making process. Anyone interested in participating should contact the rules coordinator, below. After the rule(s) is drafted, DRS will file a copy with the Office of the Code Reviser with a notice of proposed rule making, and send a copy to everyone currently on the mailing list and anyone else who requests a copy. For more information on how to

participate, please contact Merry A. Kogut, Rules Coordinator, Department of Retirement Systems, Mailstop 48380, P.O. Box 48380, Olympia, WA 98504-8380, voice (360) 664-7291, TTY (360) 586-5450, e-mail merryk@drs.wa.gov, fax (360) 753-3166.

March 12, 2003
Merry A. Kogut
Rules Coordinator

WSR 03-07-065

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF REVENUE

[Filed March 17, 2003, 11:39 a.m.]

Subject of Possible Rule Making: WAC 458-61-100 Refunds of tax paid.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.45.150 and 82.32.300.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WAC 458-61-100 explains how and when a person may petition for a refund of real estate excise taxes. Subsection (5) of the rule explains in part that a refund of tax is authorized for "transactions that are completely rescinded as defined in WAC 458-61-590." This broad statement appears to conflict with Perkins v. King County, 51 W.2d 761, 321 P.2d 903 (1958) (Refund of real estate excise tax not allowed on initial transfer because of later rescission). The department anticipates amending the rule to clarify when and to what conveyance any tax refunds may be made in the case of a rescission.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other federal or state agency regulates Washington state's taxes upon sales of real estate. The county offices that process this tax will be provided the opportunity to provide comment during the rule-making process.

Process for Developing New Rule: Modified negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments may be submitted by mail, e-mail, fax, or at the public meeting. Oral comments will be accepted at the public meeting. A preliminary discussion draft of a possible new or revised rule(s) is available upon request. Written comments on and/or requests for copies of the draft may be directed to Ed Ratcliffe, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 570-6126, e-mail EdR@dor.wa.gov, fax (360) 664-0693.

Date and Location of Public Meeting: Capital Plaza Building, 4th Floor Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on April 23, 2003, at 10 a.m.

Assistance for Persons with Disabilities: Contact Sandy Davis no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 570-6175.

March 17, 2003
Alan R. Lynn
Rules Coordinator
Legislation and Policy Division

WSR 03-07-072

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LABOR AND INDUSTRIES

[Filed March 18, 2003, 12:53 p.m.]

Subject of Possible Rule Making: Changes to safety standards for electrical workers, chapter 296-45 WAC (WISHA).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.17.010, 49.17.040, and 49.17.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The wording needs to be clarified in order to eliminate confusion stemming from the location of the second person, length of a hot stick and what constitutes a multiphased electrical feed.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Steve Vik, Department of Labor and Industries, WISHA Services Division, Standards Section, P.O. Box 44620, Olympia, WA 98504-4620, phone (360) 902-5516, fax (360) 902-5529, e-mail vikt235@lni.wa.gov.

March 18, 2003
Paul Trause
Director

WSR 03-07-077

WITHDRAWAL OF PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LICENSING

[Filed March 18, 2003, 2:07 p.m.]

The Department of Licensing hereby withdraws WSR 99-07-080 filed with your office on March 18, 1999.

D. McCurley, Administrator
Title and Registration Services

WSR 03-07-078
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING
 [Filed March 18, 2003, 2:08 p.m.]

The Department of Licensing hereby withdraws WSR 02-05-013 filed with your office on February 11, 2002.

D. McCurley, Administrator
 Title and Registration Services

WSR 03-07-079
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING
 [Filed March 18, 2003, 2:09 p.m.]

The Department of Licensing hereby withdraws WSR 02-13-012 filed with your office on June 7, 2002.

D. McCurley, Administrator
 Title and Registration Services

WSR 03-07-085
PREPROPOSAL STATEMENT OF INQUIRY
LAKE WASHINGTON
TECHNICAL COLLEGE
 [Filed March 18, 2003, 4:11 p.m.]

Subject of Possible Rule Making: Amend WAC 495D-135-040 to simplify the statute and remove procedural language.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Simplification will provide the college the opportunity to respond to procedural changes for existing policy and procedures in a timely and responsive manner.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The coordination of all applicable federal and state laws will be observed.

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 attending Lake Washington Technical College board of trustees meeting June 2, 2003; attend public meeting on June 10, 2003; or writing to Charles McWilliams, Vice-President Administrative Services, 11605 132nd Avenue N.E., Kirkland, WA 98034, (425) 739-8201, fax (425) 739-8299, e-mail chuck.mcwilliams@lwtc.edu.

March 18, 2003
 L. Michael Metke
 President

WSR 03-07-086
PREPROPOSAL STATEMENT OF INQUIRY
SECRETARY OF STATE
 [Filed March 18, 2003, 4:16 p.m.]

Subject of Possible Rule Making: Registering voters with nontraditional addresses, special absentee ballots, and preliminary abstract of votes.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 29.04.080.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: A new section on registering voters with nontraditional addresses is needed to provide consistency among local election officials. The definition of special absentee ballots is out of date and needs eliminate (WAC 434-208-010(8)), and the provisions for examination of preliminary abstract of votes need updated (WAC 434-262-010 and 434-262-020).

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

Process for Developing New Rule: Rules are developed in coordination with local election administrators.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bill Huennekens, Policy Analyst, Office of the Secretary of State, Elections Division, P.O. Box 40229, Olympia, WA 98504-0229, bhuennekens@secstate.wa.gov, phone (360) 902-4169, fax (360) 586-5629.

March 18, 2003
 Steve Excell
 Assistant Secretary of State

WSR 03-07-087
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)
 [Filed March 19, 2003, 7:54 a.m.]

Subject of Possible Rule Making: The DSHS Division of Employment and Assistance Programs will amend the WASHCAP chapter 388-492 WAC to clarify language and to update standards.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This chapter is in need of clarifying language and an update to the WASHCAP standards by October 1, 2003.

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

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. At a later date, DSHS will file proposed rules with the Office of the

Code Reviser with a notice of proposed rule making. A copy of the proposal 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 Employment and Assistance Programs, Lacey Government Center, P.O. Box 45470, Olympia, WA 98504-4570, phone (360) 413-3074, fax (360) 413-3493, e-mail MCRAECA@DSHS.WA.GOV.

March 17, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-07-101

WITHDRAWAL OF

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF HEALTH

[Filed March 19, 2003, 11:05 a.m.]

WITHDRAWAL AND REFILE OF CR-101
FOR CHAPTER 246-290 WAC - WSR 02-19-061

The Division of Drinking Water would like to withdraw the CR-101 for the federal arsenic rule and refile to more accurately describe what is being considered for rule making. The federal rule only applies to community and nontransient noncommunity water systems while excluding transient noncommunity (TNC) water systems. The Environmental Protection Agency states that health risks associated with arsenic are from long-term exposure, and that short-term exposures to arsenic should not cause a measurable health impact. However, most TNC water systems have some number of users that are permanent residents and these systems rarely serve a 100% transitory population. The department would like to consider applying the federal arsenic standard to TNC systems in this rule-making effort.

For more information, please contact Theresa Phillips, Rules Coordinator at (360) 236-3147.

Bill White
Assistant Secretary

WSR 03-07-102

WITHDRAWAL OF

PREPROPOSAL STATEMENT OF INQUIRY

STATE BOARD OF HEALTH

[Filed March 19, 2003, 11:05 a.m.]

WITHDRAWAL AND REFILE OF
CHAPTER 246-290 WAC - WSR 02-19-061

This memo serves as notice that the department is withdrawing the CR-101 for chapter 246-290 WAC, which was filed September 12, 2002, and published in WSR 02-19-061 and refile to more accurately describe what is being considered for rule making. The original proposal was to revise the rules to be consistent with Environmental Protection Agency (EPA) rules for arsenic, which do not apply to transient non-

community (TNC) water systems. The State Board of Health would like to consider having the arsenic standard apply to TNC systems in this rule-making effort. For this reason, the CR-101 for chapter 246-290 WAC needs to be withdrawn and refile to include our consideration of TNC systems.

Individuals requiring information on this rule should contact Theresa Phillips, Division of Drinking Water, at (360) 236-3147.

Don Sloma
Executive Director

WSR 03-07-103

PREPROPOSAL STATEMENT OF INQUIRY

STATE BOARD OF HEALTH

[Filed March 19, 2003, 11:06 a.m.]

Subject of Possible Rule Making: Revisions to the Group A public water systems regulation, chapter 246-290 WAC, are necessary to be consistent with federally promulgated Environmental Protection Agency (EPA) rules and regulations and to consider the arsenic standard for transient noncommunity (TNC) systems. Revisions to chapter 246-290 WAC include sections on arsenic, compliance and new source contaminant monitoring, Long-Term 1 enhanced surface water treatment and rule language clarification.

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 primacy agreement between the Department of Health and EPA outlines a number of activities that the department must do in order for the Division of Drinking Water to maintain primacy for Group A public water systems in the state. One of those activities involves rule adoption such that state regulations be consistent with federal rules. The public health objectives of the rules are to: (1) Strengthen protection from long-term exposure to arsenic for community, nontransient noncommunity and transient noncommunity water systems; (2) strengthen microbial controls for small systems, i.e. those systems serving fewer than 10,000 people; and (3) clarify current rule language.

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

Process for Developing New Rule: The department will recruit interested parties to help in revising the rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Theresa Phillips, Program Development Section, Division of Drinking Water, P.O. Box 47822, Olympia, WA 98504-7822, (360) 236-3147.

February 28, 2003
Don Sloma
Executive Director



WSR 03-06-067

PROPOSED RULES

SEATTLE COMMUNITY COLLEGES

[Filed March 3, 2003, 2:56 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-22-084.

Title of Rule: Appointing authority, board of trustees rules and regulations, rules of procedure for contested case hearing/administrative disputes, and student policies and procedures (chapters 132F-01, 132F-104, 132F-108, and 132F-120 WAC).

Rule chapters being amended or added are (to be) entitled Appointing authority, chapter 132F-01 WAC; Board of trustees, chapter 132F-104 WAC (amended title); Procedures for adjudicative proceedings, chapter 132F-108 WAC (amended title); and Student activities, rights and discipline, new chapter 132F-121 WAC. The subjects and purposes of the rules are as stated in these titles and elsewhere herein. The current chapter 132F-120 WAC, Seattle Community College student policies and procedures, is being replaced.

Statutory Authority for Adoption: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140.

Statute Being Implemented: RCW 28B.50.100 [28B.50].130, and/or [28B.50].140.

Summary: Updates and clarifies administrative rules on appointing authority for employees, board of trustees meetings and procedures, procedures for adjudicative proceedings, and student activities, rights, and discipline.

Reasons Supporting Proposal: Rules need to be updated to meet current circumstances, needs, and legal requirements.

Name of Agency Personnel Responsible for Drafting: Various; primary drafter, Assistant Attorney General, Jim Tuttle, 2000 Bank of California Building, 900 Fourth Avenue, Seattle, (206) 389-2051; Implementation and Enforcement: At the district level, under authority and through appointees of the Chancellor, 1500 Harvard, Seattle, (206) 587-4100; at the college level, under authority and through appointees of each president: Seattle Central Community College, 1701 Broadway, Seattle, (206) 587-3800; North Seattle Community College, 9600 College Way North, Seattle, (206) 527-3600; and South Seattle Community College, 6000 16th Avenue S.W., Seattle, (206) 764-5300.

Name of Proponent: Internal—Seattle Community College District, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amendments are intended to update existing rules, and "student" chapter is replaced with a new one:

- Appointing authority (chapter 132F-01 WAC): Clarifies delegation of appointing authority for district employees. Repeals unnecessary section on written employment contracts.
- Board of trustees (chapter 132F-104 WAC): Clarifies and revises details related to board meetings, and repeals eleven unnecessary sections.

- Procedures for adjudicative proceedings (chapter 132F-108 WAC): Clarifies and revises hearing procedures.
- Student activities, rights and discipline (new chapter 132F-121 WAC): Clarifies and revises provisions regarding student activities and student rights and discipline (including the processing of complaints by students and disciplinary actions against students). Seeks to ensure consistency with state law, especially the Administrative Procedure Act.

Anticipated effects are more efficient and/or fairer administration in these areas.

Proposal Changes the Following Existing Rules: Changes are numerous. These include, *without limitation*:

Chapter 132F-01 WAC:

- Clarification of appointing authority for employees (WAC 132F-01-010);
- Deletion of unnecessary procedural rule on employee contracts.

Chapter 132F-104 WAC:

- Changes regarding date, etc., of regular board meetings (WAC 132F-104-010);
- Provision for special meetings (WAC 132F-104-020);
- Provision for submission of items for board consideration (WAC 132F-104-810);
- Deletion of eleven unnecessary rules regarding internal procedures, including: Meeting locations (WAC 132F-104-030), operational policies (WAC 132F-104-801), review of agenda items (WAC 132F-104-811), deadlines (WAC 132F-104-812), submission routes (WAC 132F-104-813), informational materials (WAC 132F-104-814), distribution list (WAC 132F-104-815), advance mailings (WAC 132F-104-816), old business (WAC 132F-104-817), new business (WAC 132F-104-818), notification to board office (WAC 132F-104-819).

Chapter 132F-108 WAC:

- Clarifying appointment of presiding officers (WAC 132F-108-020);
- Adding more flexibility regarding use of brief adjudicative procedures and removing them as default in student conduct proceedings (WAC 132F-108-050);
- Adding more flexibility regarding when proceeding must be open (WAC 132F-108-070);
- Clarifying procedure for closing hearings (WAC 132F-108-080);
- Clarifying handling of matters in absence of chancellor or president (WAC 132F-108-120);
- Minor editorial changes (WAC 132F-108-100, 132F-108-130, and 132F-108-140).

Chapter 132F-120 WAC:

- Repealing chapter (to be replaced by new chapter 132F-121 WAC, Student activities, rights and discipline).

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required, by RCW 19.85.030 or otherwise.

RCW 34.05.328 does not apply to this rule adoption. These rules are not described in RCW 34.05.328 (5)(a).

Hearing Location: Seattle Community College District, District Office, Board Room, 1st Floor, 1500 Harvard Avenue, Seattle, WA 98122-3803, on April 23, 2003, at 3:30 p.m.

Assistance for Persons with Disabilities: Contact Grace Estrella by April 15, 2003, TDD (206) 587-4155 or (206) 587-3877.

Submit Written Comments to: Cynthia Felice, Seattle Community Colleges, 1500 Harvard Avenue, Seattle, WA 98122-3803, fax (206) 587-3894, by April 23, 2003.

Date of Intended Adoption: June 12, 2003.

February 28, 2003

Carin Weiss

Rules Coordinator

AMENDATORY SECTION (Amending Order 41, filed 6/15/83)

WAC 132F-01-010 Appointing authority. (1) The board of trustees of Community College District VI is the appointing authority for employees of the district, pursuant to RCW 28B.50.140, ~~(, is the appointing authority for employees of the district; and)~~ RCW 28B.10.528 provides that the board may delegate any of its powers and duties to the district president or his designee(;;), and RCW 28B.50.140(14) provides that the board may delegate any of its powers and duties to the district president. ~~((The district president has designated the three campus presidents as appointing authorities for their respective campuses.))~~ In District VI, the district president also carries the title of "chancellor."

(2) The board of trustees of Community College District VI delegates to the district president (or any acting district president or interim district president) the appointing authority for the campus presidents and the district office personnel.

(3) The president of Community College District VI designates, and the board of trustees delegates to the campus presidents (or any acting campus president or interim campus president) the appointing authority for their respective campuses.

(4) The chancellor or a campus president may designate another person to act as the respective appointing authority in his or her absence.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132F-01-020 Written contracts.

AMENDATORY SECTION (Amending Order 50, filed 9/21/87)

WAC 132F-104-010 Regular meetings of the Community College District VI board of trustees. The board of trustees will hold ~~((@))~~ regular meetings in accordance with the Open Public Meetings Act, chapter 42.30 RCW, and other applicable law. These meetings will normally be held during eleven months of the year (except August) on the

~~((first Tuesday)) second Thursday ((of each month for eleven months of the year)), unless that day is a legal holiday, in which case the meeting will be on the next business day, or unless the date is otherwise modified by board action. The dates, times, and places for such regular meetings shall be specified by motions, resolutions, or other appropriate actions of the board, or otherwise in accordance with applicable law. ((In the event that the board of trustees is unable to meet on the regular meeting date, the chairman of the board may order that the meeting be rescheduled or that no regular meeting of the board be held that month. The board shall maintain and announce a tentative meeting schedule approximately six months in advance showing the date, time[,], and location of each meeting. Advance notice of meetings shall be given in accordance with the Open Public Meetings Act of 1971, as amended.))~~

AMENDATORY SECTION (Amending Order 48, filed 10/7/85)

WAC 132F-104-020 Special meetings ((schedule)). ~~((The action session of the board of trustees meeting will begin at 6:00 p.m. in accordance with the published meeting schedule. The report session of the agenda will commence following the conclusion of the action session. During this time reports will be given to the board and resource people will be invited to provide detailed background information. These meetings are open to the public according to the Open Public Meetings Act of 1971, as amended.))~~ The board of trustees may also hold special meetings in accordance with Chapter 42.30 RCW and other applicable law.

AMENDATORY SECTION (Amending Order 40, filed 7/1/81)

WAC 132F-104-810 Submission of items for board consideration. Any individual, group of individuals, or organization may submit any item of concern to the board ~~((for consideration)),~~ in writing and/or verbally, in accordance with applicable policies and procedures and such restrictions as the board or its secretary may impose in the interests of fairness and efficient board operations. Any such written item, and notice of any intent to submit an item verbally, should be provided to the district chancellor or other board secretary at least ten days before the next regular board meeting. ((; however, normal administrative channels are recommended to assure adequate background information.))

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

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132F-104-030 Location of meeting.

WAC 132F-104-801 Board operational policies relative to meetings.

WAC 132F-104-811	Review of agenda items.
WAC 132F-104-812	Deadlines.
WAC 132F-104-813	Submission routes.
WAC 132F-104-814	Informational materials.
WAC 132F-104-815	Board distribution list.
WAC 132F-104-816	Advance mailings for special meetings.
WAC 132F-104-817	Old business.
WAC 132F-104-818	New business.
WAC 132F-104-819	Notification to board office.

Chapter 132F-108 WAC

~~((RULES OF))~~ PROCEDURES FOR ~~((CONTESTED CASE HEARING/ADMINISTRATIVE DISPUTES))~~ ADJUDICATIVE PROCEEDINGS

AMENDATORY SECTION (Amending WSR 94-18-070, filed 9/1/94)

WAC 132F-108-020 Appointment of presiding officers. The district president/chancellor or president of one of the district's institutions, or a designee of either, shall designate a presiding officer for an adjudicative proceeding. The presiding officer shall be an administrative law judge, ~~((or a))~~ member in good standing of the Washington State Bar Association, ~~((or))~~ a panel of individuals, the district president/chancellor or his or her designee, or any combination of the above. When more than one individual is designated to be the presiding officer, one such person shall be designated ~~((by the district president/chancellor's or designee))~~ to make decisions concerning discovery, closure, means of recording adjudicative proceedings, and similar matters. These designations may also be made by separate rule.

AMENDATORY SECTION (Amending WSR 94-18-070, filed 9/1/94)

WAC 132F-108-050 Brief adjudicative procedures. This rule is adopted in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are hereby adopted. ~~((These b))~~ Brief adjudicative procedures shall be used, unless provided otherwise by another rule or determined otherwise in a particular case by the district chancellor, the affected campus president, or a designee of either, in ~~((all matters related))~~ regard to:

- (1) Parking violations.
- ~~((2))~~ ~~Student conduct proceedings))~~
- ~~((3))~~ (2) Outstanding debts owed by students or employees.
- ~~((4))~~ (3) Use of college facilities.
- ~~((5))~~ (4) Residency determinations.
- ~~((6))~~ (5) Use of library—fines.
- ~~((7))~~ (6) Challenges to contents of education records.
- ~~((8))~~ (7) Loss of eligibility for participation in institution sponsored athletic events.

Brief adjudicative proceedings are informal hearings and shall be conducted in a manner which will bring about a prompt fair resolution of the matter.

AMENDATORY SECTION (Amending WSR 94-18-070, filed 9/1/94)

WAC 132F-108-070 Adjudicative proceedings open. Adjudicative proceedings shall be open to the public, except as may be provided otherwise by law or legal requirement. ~~((for student disciplinary matters, in compliance with 20 U.S.C. Sec. 1232g, the Family Educational Rights and Privacy Act, unless the student chooses to have the hearing open to the public; and faculty and administrative exempt disciplinary proceedings, unless the person subject of the proceedings chooses to have the hearing open to the public.))~~

AMENDATORY SECTION (Amending WSR 94-18-070, filed 9/1/94)

WAC 132F-108-080 Procedure for closing parts of the hearings. A party may apply for a protective order to close part of a hearing. The party making the request should state the ~~((reasons))~~ justification for ~~((making))~~ the application to the presiding officer. If the other party opposes the request, that party may provide a written response ~~((to the request shall be made))~~ to the presiding officer within 10 days of the request ~~((to the presiding officer))~~. The presiding officer shall determine which, if any, parts of the proceeding shall be closed, and state the reasons therefore, in writing, within 20 days of receiving the request.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending WSR 94-18-070, filed 9/1/94)

WAC 132F-108-100 Petitions for stay of effectiveness. Disposition of a petition for stay of effectiveness of a final order shall be made by the official, officer, or body of officers ~~((;))~~ who entered the final order.

AMENDATORY SECTION (Amending WSR 94-18-070, filed 9/1/94)

WAC 132F-108-120 Absence of president. The district president/chancellor or president of one of the district's institutions may designate another employee of the college to act in his/her place on a temporary basis during his/her absence. An employee appointed under this provision shall only have the authority to act upon matters which require a decision by the president within ~~((a))~~ the limited period of time ~~((and))~~ when the president, due to his/her absence, ~~((would be))~~ is unable to decide such matter.

AMENDATORY SECTION (Amending WSR 94-18-070, filed 9/1/94)

WAC 132F-108-130 Appearance and practice before agency. No person may appear in a representative capacity before the agency other than the following:

(1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington.

(2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if ((the)) attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law.

(3) Persons otherwise qualified as possessing the requisite skill to appear and expertly represent others who have applied to the agency and have been duly authorized by the agency to appear in a representative capacity before the agency.

(4) A bona fide officer, partner, or full-time employee of an individual firm, association, partnership, or corporation who appears for such individual firm, association, partnership or corporation.

AMENDATORY SECTION (Amending WSR 94-18-070, filed 9/1/94)

WAC 132F-108-140 Definition of issues before hearing. In all proceedings the issues to be adjudicated shall be ((made)) identified initially as precisely as possible, in order that the agency may proceed promptly to conduct the hearings on relevant and material matters only.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

Chapter 132F-120 WAC Seattle community college student policies and procedures.

Chapter 132F-121 WAC

STUDENT ACTIVITIES, RIGHTS AND DISCIPLINE

NEW SECTION

WAC 132F-121-010 Definitions and general provisions. For purposes of this chapter:

(1) The terms "college" and "campus" are used interchangeably, and each refers to any of the district's three colleges, North Seattle Community College, Seattle Central Community College, and South Seattle Community College. The Seattle Vocational Institute is considered to be part of Seattle Central Community College.

(2) "Day" means calendar day, unless specified otherwise, and deadlines shall be computed in accordance with WAC 10-08-080.

(3) "District" means the sixth state college district, the district administrative offices (Siegal Center), North Seattle

Community College, Seattle Central Community College, South Seattle Community College, the Seattle Vocational Institute, and/or every other District VI educational facility, each separately and all together.

(4) "District community" includes, but is not limited to, the district itself and all enrolled students, employees, officers, and invitees of the district.

(5) "District property" includes all real property, buildings, and other facilities that are owned, leased, or controlled by the district or by the state for district purposes.

(6) "Vice-president for student services" means the person whom a college president has appointed to that position or has otherwise designated to perform the functions ascribed to that position in this chapter.

(7) An action or activity that may be authorized or taken by the district chancellor, a vice chancellor, a campus president, or a campus vice-president may also be authorized or taken by any other person whom that officer has specifically designated to perform that function on his/her behalf, but this officer retains responsibility for the function.

(8) After the adoption of these rules, if a statute or rule to which they refer is re-numbered or otherwise amended, these rules shall be interpreted to the fullest extent possible to incorporate such amendment while still giving effect to their original purposes.

(9) Service of any document, notice, or copy under this chapter shall be made (a) by personal delivery, (b) by mailing to the recipient's last known address, which service shall be regarded as complete upon deposit in the U.S. mail properly stamped and addressed, or (c) as otherwise authorized by law or rule.

NEW SECTION

WAC 132F-121-020 Student rights, freedoms, and responsibilities. (1) Preamble. As members of the academic community, students are encouraged to develop the capacity for critical judgment and to engage in an independent search for truth. Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility. The responsibility to secure and to respect general conditions conducive to the freedom to learn is shared by all members of the academic community.

(2) Classroom freedom of expression. The district recognizes the rights of students to freedom of discussion and free expression of views. However, students' rights of classroom expression do not include expression of racist, sexist, homophobic, and other views which create a hostile work environment under Chapter 49.60 RCW or other applicable law. It is the responsibility of the instructor to insure and encourage the realization not only of the fact but of the spirit of free inquiry. Instructors have the responsibility to maintain order, but this authority shall not be used to inhibit the expression of views contrary to their own. Students have the right to take reasoned exception to the data or views offered in any course of study and to reserve judgment about matters of opinion, but they cannot do so in a disruptive manner that

interferes with the educational process. Students are responsible for learning the content of any course of study for which they are enrolled. It also is the responsibility of the student to comply with the instructor's efforts to assure freedom of expression and to maintain order.

(3) Protection against improper evaluation. Instructors shall give their students fair and consistent evaluations of the students' course performance. Toward this end, instructors are also responsible for establishing appropriate standards of academic performance for each course. Fair and consistent grading is a legitimate classroom experience.

(4) Protection against improper disclosure. Information about student views, beliefs, and political associations which is acquired by instructors in the course of their work as faculty or advisors, under circumstances which clearly indicate that it is intended to be confidential, shall be treated as confidential and shall not be disclosed to others, unless it relates to the apparent or intended commission of a crime or disclosure is required by law. Protection against improper disclosure of student education record information is a serious professional obligation incurred by the teaching profession and district administrators. However, evaluations of student ability and character may be provided to third parties with the student's consent or in accordance with applicable law.

(5) Nonacademic expression and inquiry. Students and student organizations are free to examine and to discuss all questions of interest to them and to express opinions publicly and privately, in accordance with law. They are free to support causes by orderly means which do not disrupt the operation of the institution and which comply with the district's policies regarding these activities.

(6) The district shall respect students' right to privacy. It will not inquire into the off-campus activities of its students without legal justification.

NEW SECTION

WAC 132F-121-030 Student organizations. (1) Student organizations may be established and recognized whether their aims are educational, cultural, recreational, social, athletic, religious, political, or economic. Affiliation with an external organization shall not in and of itself disqualify a campus-based student organization from recognition. Membership in a student organization shall be open to any student who subscribes to the stated aims of the organization. To operate as such, a student organization must be recognized by the approved student government organization. The student organization shall abide by all governing federal and state laws and district and campus rules, policies and procedures.

(2) The campuses may require and review membership lists of any student organization. They also may require, as a condition of access to campus funds and facilities, demonstration or proof of members' student enrollments. However, a college may, in its discretion, permit others, such as students' spouses, to participate in a student organization's activities under appropriate conditions.

(3) Each year, before a student organization may be recognized or function as such, or may use services and activities funds, a college employee must agree to serve as its advisor

and his/her name must be provided to and approved by the vice-president for student services. No campus employee may serve as the advisor for more than two student organizations at the same time.

(4) Where funds are allocated to a student organization, financial accountability is required. Student organizations' funds shall be maintained at the college, in college accounts. The organizations shall keep detailed written records of their income and expenditures and shall assure that these can be reconciled with the campus budget and accounting system. Student organizations' financial records must be made available upon request to the student government organization and to any administrative officer designated by the college president.

(5) A college president may withdraw a student organization's recognition and funding for good cause. Such cause shall include, but not be limited to, (a) failure to comply with this rule or other district requirements or (b) hazing.

NEW SECTION

WAC 132F-121-040 Journalistic freedom and responsibility. (1) A primary purpose of student publications is to promote free and responsible discussion of campus and community issues.

(2) Each campus president shall establish a board of publications composed of representatives of students, faculty, and staff. This board shall serve as the publisher of all student publications and shall have general authority over them.

(3) The board of publications may adopt, subject to modification by the campus president, such journalistic, editorial, and advertising guidelines as it deems appropriate to govern student publications. Unless specifically stated by the board and approved by the campus president otherwise, these guidelines shall be deemed to include all applicable federal and state laws, all district rules, policies and procedures, and relevant codes of journalistic, editorial and advertising ethics and practices as adopted by national trade and professional organizations, including but not limited to the *Statement of Principles* as adopted by the American Society of Newspaper Editors.

(4) Student newspapers shall be free of censorship. However, student newspapers and other student publications shall follow the board's guidelines as described above. Student editors shall be free to develop their own editorial policies within these guidelines.

(5) Staff members of student newspapers shall not be subject to arbitrary discipline or dismissal because of student, faculty, administrative or community disapproval of editorial policy or content.

(6) Good cause for discipline or dismissal of a student publication staff member shall include, but not be limited to, violation of the board's guidelines. Any discipline or dismissal of a student staff member shall be subject to review under the student complaint procedure.

NEW SECTION

WAC 132F-121-050 Student use of the district/college name. (1) No individual student, student group, or student organization may act or make any representation in the name of the district or of any campus without specific authorization from the vice-president for student services.

(2) No individual student, student group or student organization shall falsely indicate or represent that his, her, or its own position on any policy or issue is that of the district or of any campus.

NEW SECTION**WAC 132F-121-060 Student complaints generally.**

(1) The procedures in this chapter are to be used for the processing and disposition of complaints by students (complainants) against college employees or other students, except to the extent that a complaint is against a college employee and the processing is dictated otherwise by a collective bargaining agreement or other applicable process. These procedures are available to all students and are intended to protect the rights of both the complainant and the respondent.

(2) For the purposes of this chapter, a "complaint" is a good faith claim, based on personal knowledge, that the respondent employee or student (a) has violated a specific legal or district requirement or has otherwise acted without reasonable care (b) on district property or during an event or activity that the district conducts, participates in, or sponsors, (c) in a manner that had or has a significant detrimental effect on the complainant. However, an objection to disciplinary action under the student conduct code is only appealable under that code, and cannot constitute a complaint.

(3) Each college president shall appoint a complaints officer to handle student complaints. This position shall be filled by an employee whose position is below the level of vice-president. The district chancellor shall designate a complaints officer to handle complaints against Siegal Center employees. If the president or chancellor determines, upon request, that the complaints officer has a disqualifying personal interest in a particular matter, s/he may appoint a substitute complaints officer for that matter.

(4) The complaints officer shall be responsible for taking appropriate actions to try to resolve complaints. Information on the identity and location of the complaints officer(s) and about this procedure shall be readily available within each college.

(5) A complaint may be initiated under either the informal process or the formal process, as set forth below.

(6) No respondent or district employee shall take adverse action or otherwise retaliate against a student because that student initiated a complaint or assisted another student with a complaint.

(7) If more than one type of complaint or more than one respondent is included in one complaint, the complaints officer may, upon request, provide for appropriate modification(s) of these procedures.

(8) If a respondent employee is unavailable, or otherwise fails or refuses to participate timely in a complaint proceeding, the respondent's supervisor may, upon request and in

her/his discretion, act or designate another person to act in the complaint proceeding on that employee's behalf. However, no action by a substitute may subject the respondent employee to discipline.

NEW SECTION

WAC 132F-121-070 Informal processing of complaints. (1) This informal process is intended to facilitate prompt and amicable resolution of a complaint apart from the formal complaint process.

(2) A student who has a complaint is encouraged to discuss the matter directly with the respondent to attempt to resolve it.

(3) If the complainant believes that discussion with an employee respondent will not achieve or has not achieved a satisfactory result, the complainant may communicate about the matter with the respondent's supervisor, if any. If the complainant identifies the matter as a complaint under this procedure, the supervisor shall, within the earlier of five days following that communication or any deadline established in an applicable collective bargaining agreement, appropriately notify the respondent of the complaint. The supervisor also shall, within the earlier of fifteen days following that communication or any deadline established in an applicable agreement, meet or attempt to meet with the respondent and otherwise attempt to resolve the complaint.

(4) Any participant in the informal process may request the complaint officer's assistance in obtaining a resolution.

(5) This informal process shall be deemed to be terminated if the complainant files a timely formal complaint related to the same matter.

NEW SECTION

WAC 132F-121-080 Formal processing of complaints. (1) This formal process applies to student complaints that are made to the complaints officer in writing. The complaints officer may extend any deadline herein for good cause.

(2) To be considered under this formal process, a complaint must be filed with the complaints officer in writing within ninety days of when the complainant knew or reasonably should have known that he/she had cause for a complaint, except as otherwise provided in WAC 132F-121-090 for a grade complaint. The written complaint shall be designated as a complaint under these rules and shall fully specify the facts and other grounds on which it is based. The complainant should attach copies of relevant supporting documents when feasible.

(3) Upon receipt of the complaint, the complaints officer shall determine whether it qualifies as such. If the officer determines that it does not qualify as a complaint, she/he shall serve notice to that effect on the complainant within five days. The complainant may obtain review of that notice of complaint disqualification by filing a written request with the complaints officer under subsection (7) below.

(4) If the complaints officer determines that the complaint does qualify as such, that officer shall serve copies of the complaint and any supporting documentation on the

respondent and the respondent's supervisor (if any) within five days. After service of such a copy of the complaint, the respondent shall serve a written response on the complaints officer, and a copy thereof on the respondent's supervisor (if any), within fifteen days.

(5) Within five days of service of that response, or, absent a response, within five days of when one was due, the complaints officer shall serve on the complainant either the response or a statement that none has been received, together with notice of the complainant's rights under the following subsection.

(6) Within five days of this service, if the complainant finds that the response or nonresponse is unsatisfactory she/he may serve written notice of such dissatisfaction on the complaints officer. Within five days of service of such notice, the complaints officer shall schedule a conference and invite the complainant, the respondent, and the respondent's supervisor (if any). This conference shall be held within fifteen days of service of the complainant's notice, or as soon thereafter as feasible. During this conference the complaints officer shall try to facilitate resolution. The complaints officer shall produce a written statement summarizing this conference and serve copies on each of the invited attendees within ten days after the conference.

(7) Within five days after service of either a notice of complaint disqualification or a conference summary, the complainant may obtain review thereof by filing a written request for such review with the complaints officer. Within five days of receiving this request for review, the complaints officer shall forward it, together with the complaint and other relevant documents, either to the vice-president of instruction (if the officer determines that the complaint is predominantly an instructional matter) or to the vice-president for student services (if the officer determines that the complaint is predominantly noninstructional in nature). If the respondent is a Siegal Center employee, the complaints officer shall forward the matter to a vice chancellor.

(8) This reviewing administrator shall review the complaint and documentation, and may also interview knowledgeable persons as appropriate. The administrator should render a written decision within fifteen days after receiving the complaint and documents, or as soon thereafter as feasible. The administrator may accept, reject, or modify any of the previous action(s) in the matter, and/or take other action(s). This decision shall be in writing and shall be served on the complainant, respondent, and others deemed appropriate.

(9) This decision of the reviewing administrator shall be the final decision of the district on that complaint.

NEW SECTION

WAC 132F-121-090 Additional provisions for grade complaints. (1) For student complaints regarding grades received for course work, this section shall apply in addition to the above-described informal and formal procedures.

(2) A student may formally grieve only the final grade received in a course, but that complaint may include any or all of the components of that final grade. For a grade com-

plaint, the respondent(s) shall be, or include, the instructor who issued the grade.

(3) Instead of the deadline in WAC 132F-121-080, a formal complaint regarding a grade must be filed not later than the last day of the quarter which follows the quarter for which the disputed grade was received, except that a complaint regarding a spring quarter grade may be filed through the last day of the following fall quarter.

(4) In specifying the facts and other grounds on which it is based, the formal complaint shall specify the grade that is being challenged and should attach copies of relevant documents. The response on behalf of the respondent shall include, to the extent feasible, the applicable evaluation criteria, copies of the course syllabus and relevant grading records, and the faculty member's explanation for the grade.

(5) Ordinarily the evaluation of course mastery is exclusively within the province of the instructor of a particular course, and so a grade change may be initiated only by that instructor. However, if a formal grade complaint is ultimately reviewed by the vice-president of instruction, and she/he finds that the grade was issued for an improper reason or was arbitrary and capricious or otherwise unlawful, that vice-president may change the grade in the records of the college.

(6) Nothing in these rules shall be construed to limit the separate authority of the vice-president of instruction to change a grade when required by a judicial order or a legal settlement agreement entered into by the district, regardless of whether a complaint has been filed.

NEW SECTION

WAC 132F-121-100 Student conduct generally. (1) Pursuant to the authority granted by RCW 28B.50.140 and other applicable law, the district board of trustees hereby establishes the following rules on student conduct and student discipline as the district's student conduct code.

(2) This student conduct code applies to every person who is enrolled as a student in the district.

(3) Expectations of students. Admission to the district presumes that students will conduct themselves as responsible members of the district community. When students enroll in any of the colleges or facilities operated by the district, they assume the obligation to observe standards of conduct which are appropriate to the pursuit of their educational goals.

(4) Student responsibility. Students have the obligations to:

(a) Maintain high standards of academic and personal honesty and integrity;

(b) Respect the rights of others and cooperate with all parts of the district community to insure that such rights are guaranteed, whether or not the views of those exercising such rights are consistent with their own;

(c) Refrain from actions which would interfere with campus functions or endanger the health, safety, welfare or property of others;

(d) Comply with district rules and regulations; and

(e) Comply with duly constituted civil authority, and obey all applicable laws.

NEW SECTION

WAC 132F-121-110 Student misconduct. Misconduct for which the campuses may impose sanctions includes, but is not limited to, any of the following:

(1) Any act of course-related dishonesty, including but not limited to cheating or plagiarism.

(a) Cheating includes, but is not limited to, using, or attempting to use, any material, assistance, or source which has not been authorized by the instructor to satisfy any expectation or requirement in an instructional course, or obtaining, without authorization, test questions or answers or other academic material that belong to another.

(b) Plagiarism includes, but is not limited to, using another person's ideas, words, or other work in an instructional course without properly crediting that person.

(c) Academic dishonesty also includes, but is not limited to, submitting in an instructional course either information that is known to be false (while concealing that falsity) or work that is substantially the same as that previously submitted in another course (without the current instructor's approval).

(2) Any other act of college-related dishonesty. Such acts include, but are not limited to:

(a) Forgery, alteration, or misuse of any district document, record, or instrument of identification;

(b) Tampering with an election conducted by or for district students; or

(c) Furnishing false information, or failing to furnish correct information, in response to the request or requirement of a district officer or employee.

(3) Obstruction or disruption of (a) any instruction, research, administration, disciplinary proceeding, or other district activity, whether occurring on or off district property, or (b) any other activity that is authorized to occur on district property, whether or not actually conducted by the district.

(4) Assault, physical abuse, verbal abuse, threat(s), intimidation, harassment, or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of any student, any district officer or employee, or any other person who is on district property or is participating in a district activity.

(5) Attempted or actual damage to, or theft or misuse of, real or personal property or money of (a) the district or state, (b) any student or district officer, employee, or organization, or (c) any other person or organization lawfully present on district property, or possession of such property or money after it has been stolen.

(6) Failure to comply with the direction of a district officer or employee who is acting in the legitimate performance of his or her duties, or failure to properly identify oneself to such a person when requested to do so.

(7) Participation in any activity which unreasonably disrupts the operations of the district or infringes on the rights of another member of the district community, or leads or incites another person to engage in such an activity.

(8) Possession or use, without express authorization by the district chancellor or a campus president, of any explosive, incendiary device, dangerous chemical, weapon, or

other device or substance which can be used to inflict bodily harm or to damage real or personal property.

(9) Hazing. Hazing includes, but is not limited to, any initiation into a student organization or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student.

(10) Being observably under the influence of any alcoholic beverage, or otherwise using, possessing, consuming, or selling any alcoholic beverage, except as permitted by law and authorized by the chancellor or a college president.

(11) Being observably under the influence of any narcotic drug or controlled substance as defined in Chapter 69.50 RCW, or otherwise using, possessing, consuming, or selling any such drug or substance, except (a) in accordance with a lawful prescription for that student by a licensed health care professional or (b) as permitted by law and authorized by the chancellor or a college president.

(12) Obstruction of the free flow of pedestrian or vehicular movement on district property or at a district activity.

(13) Conduct which is disorderly, lewd, or obscene.

(14) Breach of the peace, or aiding, abetting, or procuring a breach of the peace.

(15) Discriminatory action which harms or adversely affects any student or district employee because of her/his race, color, national origin, mental or physical disability, gender, sexual orientation, age, creed, or religion.

(16) Sexual harassment of a student or district employee. This includes, but is not limited to, engaging in unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature where such behavior offends or would offend a reasonable and prudent person.

(17) Other harassment of a student or district employee. This includes, but is not limited to, repeated and unwelcome following (stalking) or contacting of such a person or making a threat which places that person in reasonable fear of bodily harm.

(18) Smoking inside a campus building or in or on any other property where smoking is not authorized.

(19) Theft or other misuse of computer time or other electronic information resources of the district. Such misuse includes but is not limited to:

(a) Unauthorized use of such resources or opening of a file, message, or other item;

(b) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;

(c) Unauthorized use or distribution of someone else's password or other identification;

(d) Use of such time or resources to interfere with someone else's work;

(e) Use of such time or resources to send, display, or print an obscene or abusive message, text, or image;

(f) Use of such time or resources to interfere with normal operation of the district's computing system or other electronic information resources;

(g) Use of such time or resources in violation of applicable copyright or other law; or

(h) Adding to or otherwise altering the infrastructure of the district's electronic information resources without authorization.

(20) Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to district property, or unauthorized entry onto or into district property.

(21) Abuse or misuse of any of the procedures relating to student complaints or misconduct, including but not limited to:

- (a) Failure to obey a subpoena;
- (b) Falsification or misrepresentation of information;
- (c) Disruption, or interference with the orderly conduct, of a proceeding;
- (d) Interfering with someone else's proper participation in a proceeding;
- (e) Destroying or altering potential evidence, or attempting to intimidate or otherwise improperly pressure a witness or potential witness;
- (f) Attempting to influence the impartiality of, or harassing or intimidating, a student conduct committee member; or
- (g) Failure to comply with any disciplinary sanction(s) imposed under this student conduct code.

(22) Operation of any motor vehicle on district property in an unsafe manner or in a manner which is reasonably perceived as threatening the health or safety of another person.

(23) Violation of any other district rule, requirement, or procedure, including but not limited to any that is posted in electronic form, the district's traffic and parking rules, or the requirements for carpool parking.

(24) Violation of any federal, state, or local law, rule, or regulation.

(25) Aiding, abetting, inciting, encouraging, or assisting another person to commit any of the foregoing acts of misconduct.

NEW SECTION

WAC 132F-121-120 Instructor sanctions for course work dishonesty or classroom misconduct. (1) An instructor need not give credit for course work that is the product of cheating, plagiarism, or other dishonesty. For any act of dishonesty that occurs during an instructional course, the instructor may adjust the student's grade accordingly for the particular examination, paper, or other work product where that dishonesty occurred. Any such grade adjustment shall not limit or preclude disciplinary sanction(s) for the same act of dishonesty.

(2) An instructor may take appropriate action to maintain order and proper conduct in the classroom and to maintain the effective cooperation of students in fulfilling the objectives of the course. If a student is so disorderly or disruptive that it is difficult or impossible to maintain classroom decorum, that action may include removing that student from that day's class session.

(3) With regard to any act of course-related dishonesty, classroom misconduct, or other academic misconduct, the faculty member involved may notify his/her dean, with supporting documentation. The dean shall then determine whether to refer the matter to the vice-president for student services for possible disciplinary action.

(4) A student who has received a grade adjustment by the instructor on the basis of dishonesty may grieve that adjust-

ment under the student complaint procedure. However, any disciplinary sanction that is imposed instead of or in addition to an instructor's grade adjustment may be imposed and reviewed only under the student disciplinary procedure.

NEW SECTION

WAC 132F-121-130 Disciplinary jurisdiction. (1) Disciplinary action may be instituted against a student for any misconduct that is a violation of this student code, regardless of whether there is a related civil or criminal court proceeding. Proceedings under these rules may precede, accompany, or follow any such court proceeding.

(2) Except as provided in subsection (3), a student is subject to disciplinary action under these rules for any act of misconduct which (a) occurs on or damages district property or (b) occurs during any event or activity that the district conducts, participates in, or sponsors, regardless of where it occurs.

(3) The district reserves jurisdiction and authority to take disciplinary action for student misconduct beyond that described in subsection (2) when the misconduct demonstrates such flagrant disregard for the safety or well-being of others that it endangers the district community.

NEW SECTION

WAC 132F-121-140 Initiation of discipline. (1) The vice-president for student services at each campus is responsible for investigating possible violations of this student conduct code at that campus and initiating any appropriate disciplinary actions. If that officer is a respondent in a complaint initiated by the subject student, the college president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complainant.

(2) Any member of the district community may make a complaint against a student whom she/he believes has violated this student conduct code. Such a complaint should ordinarily be filed in writing with the vice-president for student services. However, no such complaint is required in order for that vice-president to take action on any matter that comes to his/her attention.

NEW SECTION

WAC 132F-121-150 Vice-president's review and action. (1) After conducting such initial investigation of possible misconduct as she/he deems appropriate, the vice-president for student services shall meet, or make a reasonable effort to meet, with the subject student. At that meeting, or if there is no meeting in a document served on the student, the vice-president shall describe the complaint and/or information that has been received and identify the rule violations that appear to have occurred. In order that any informality not mislead the student as to the seriousness of the matter, the vice-president shall also inform the student of the sanction(s) that may be imposed for the alleged misconduct. The vice-president shall give the student an opportunity to respond to the allegations before a disciplinary decision is made.

(2) After considering the information that has been obtained through investigation and/or from the student, the vice-president may take any of the following actions:

- (a) Terminate the proceeding, exonerating the student;
- (b) Give any appropriate counseling or advice and then terminate the proceeding;
- (c) Impose disciplinary sanction(s), subject to any right of appeal as described herein; or
- (d) Refer the matter to the student conduct committee for such action as it deems appropriate. Such referral shall be in writing, to the attention of the committee chair, with a copy served on the student.

(3) A "respondent" as referred to hereinafter is a student upon whom a disciplinary sanction has been imposed or whose case has been referred to the student conduct committee.

NEW SECTION

WAC 132F-121-160 Disciplinary actions. (1) Any of the following disciplinary sanctions may be imposed for violation of one or more specified provisions of this student conduct code:

(a) Warning: Oral notice to the student of the violation(s). There shall be no appeal from a warning.

(b) Reprimand: Written notice to the student of the violation(s). A reprimand indicates, and usually states, that other or further misconduct, especially any continuation or repetition of the misconduct in question, may or will result in more serious disciplinary action. There shall be no appeal from a reprimand.

(c) Probation: Placement of one or more conditions on the student's continued attendance, as specified in the written notice to the student. The time period of the probation will ordinarily be stated in the notice; if not stated at all, or if so stated, the probation shall be for an indefinite period, concluding only with the end of the student's enrollment.

(d) Suspension from activities: Disqualification of the student, for a stated or indefinite period of time, from participation in specified (or all) privileges, services, or activities that are provided or sponsored by the district.

(e) Suspension of enrollment: Termination, for a stated or indefinite period of time, of all rights as an enrolled student in the college and/or the district, subject to the student's right to seek reinstatement as provided in WAC 132F-121-240.

(f) Expulsion: Permanent termination of a student's enrollment, and right to enroll, at any college or other educational facility in the district.

(g) Grade change: Lowering of a student's grade in a course below that awarded by the instructor.

(2) The conditions or terms of probation or suspension may include, without limitation:

(a) Restriction of future contact or communication with designated persons;

(b) Restriction of the student's access to district property; and/or

(c) Payment for personal injury, property damage, or other expenses related to the violation.

Failure to comply with a condition or term of probation or suspension shall be cause for further disciplinary sanction.

(3) A respondent's record of past misconduct may be considered in determining the appropriate disciplinary action.

(4) A summary suspension and/or an emergency suspension under WAC 132F-121-250 may be combined with or added to another suspension or an expulsion.

(5) A suspension or expulsion may include a provision stating whether all or any part of the respondent's tuition and other fees will be refunded.

(6) A disciplinary sanction, except a warning, shall be imposed through written notice served on the respondent. Each notice of disciplinary action shall state:

(a) A reasonable description of the facts on which the action is based;

(b) The provision(s) of this student conduct code found to have been violated;

(c) The sanction(s) imposed; and

(d) The respondent's right to appeal, i.e., to request an adjudicative proceeding, under these rules (except for a reprimand).

A copy of these student conduct rules should be included with the notice.

NEW SECTION

WAC 132F-121-170 Appeals and referrals generally.

(1) Except as otherwise provided herein, a respondent who has received notice of disciplinary sanction(s) imposed by the vice-president for student services may appeal such sanction(s) by filing a written notice of appeal with that officer within twenty days. The notice of appeal may include any statement that the respondent wishes to make of the grounds for her/his appeal.

(2) If the vice-president has referred the matter to the student conduct committee for action, no appeal is required, but the student may file a written response with the vice-president within twenty days of service of that referral.

(3) The vice-president shall promptly transmit any notice of appeal or response to referral, together with a copy of any notification of discipline, to the chair of the student conduct committee, described below. The vice-president should serve a copy of that transmittal on the respondent.

(4) Except through a summary suspension and/or emergency suspension under WAC 132F-121-250, a respondent's enrollment status and rights as an enrolled student shall not be altered, on the basis of a disciplinary sanction imposed by the vice-president, until (a) the appeal period has run without a proper appeal being filed or (b) if there is an appeal, either that appeal has been withdrawn or the final order has been entered.

(5) If a respondent files a timely appeal of a probation or suspension that includes restrictions on contacts, communications, or campus access, the vice-president will ordinarily modify those restrictions as necessary to facilitate the respondent's preparation for the hearing.

NEW SECTION

WAC 132F-121-180 Student conduct committee. (1)

A student conduct committee at each college will hear all disciplinary cases at that college which are referred to it by the

vice-president for student services or appealed to it by a student. For purposes of WAC 132F-108-020 and any other requirements, the district trustees and chancellor and each college president designate (a) the committee provided for herein to serve as presiding officer to hear the described student disciplinary matters and (b) the committee chair both to handle and decide procedural matters (as provided herein) and to preside at the hearing.

(2) This committee shall be composed of the following three members:

(a) One administrator or exempt employee, appointed by the college president;

(b) One member of the faculty, appointed by the college president; and

(c) One student, appointed by the president of the recognized student government organization.

(3) Each appointment shall be accompanied by the appointment of two alternates. Each member and alternate shall serve for the academic year or until a replacement is appointed, whichever is longer. When a member is not available for a hearing, the committee chair shall designate an alternate to replace him/her for that hearing. If a member or alternate ceases to serve, a successor shall be promptly appointed. A member or alternate may be re-appointed in any role.

(4) The administrator or exempt employee shall be the committee chair.

(5) No employee who reports to, or is subject to the authority of, the vice-president who handles student disciplinary matters may be a committee member, as further provided in RCW 34.05.458. A committee member is subject to disqualification for bias, prejudice, interest, or as further provided in RCW 34.05.425.

NEW SECTION

WAC 132F-121-190 Student conduct committee hearings—In general. (1) A respondent student has a right to a prompt, fair, and impartial hearing before the student conduct committee on a referral for, or timely appeal of, a disciplinary sanction, except as otherwise provided in these rules.

(2) Chapter 34.05 RCW and Chapter 10-08 WAC govern committee proceedings and control in the event of any conflict with these rules. The district's Chapter 132F-108 WAC also governs committee proceedings.

(3) The chair of the committee shall give not less than seven days advance written notice of the hearing to all parties, as further specified in RCW 34.05.434 and WAC 10-08-040 and 10-08-045. The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause.

(4) The committee chair may provide to the committee members in advance of the hearing copies of (a) the vice-president for student service's notification of imposition of discipline (or referral to the committee) and (b) the notice of appeal (or any response to referral) by the respondent. If doing so, however, the chair should remind the members that these "pleadings" are not evidence of any facts they may allege.

(5) The committee chair is authorized to conduct pre-hearing conferences and/or to make pre-hearing decisions, except as overridden by majority vote of the committee, concerning the extent and forms of any discovery, issuance of protective orders, and similar procedural matters.

(6) Upon request made at least five days before the hearing by either the respondent or the vice-president, the two of them shall exchange, no later than the third day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present in their respective cases, except impeachment or rebuttal evidence. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, absent a showing of good cause for such failure.

(7) The respondent and the vice-president may agree before the hearing to designate specific exhibits as admissible without objection and, if they do so, whether the committee chair may provide copies of these admissible exhibits to the committee members before the hearing.

(8) The vice-president shall provide reasonable assistance to the respondent, upon request, in obtaining relevant and admissible evidence that is within the college's control.

(9) Communications between committee members and other persons regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited without notice and opportunity for all parties to participate, and any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

(10) Each party may be accompanied at the hearing by a nonattorney assistant of his/her choice. A respondent may elect to be represented by an attorney, but will be deemed to have waived that right unless, at least four days before the hearing, written notice of the attorney's identity and participation is served on both the chair and the vice-president. If the respondent is represented by an attorney, the vice-president may also be represented by an attorney. If both the respondent and vice-president have counsel, the committee will ordinarily be advised by a separate assistant attorney general.

NEW SECTION

WAC 132F-121-200 Student conduct committee hearings—Presentations of evidence. (1) Upon the failure of any party to attend or participate in a hearing, the committee may either (a) proceed with the hearing and issuance of its order or (b) serve an order of default in accordance with RCW 34.05.440.

(2) The hearing will ordinarily be open to the public, as further provided in RCW 34.05.449. However, if the respondent requests that some or all of it be closed, pursuant to WAC 132F-108-070 and 132F-108-080 or otherwise, the chair shall determine any extent to which the hearing will be closed. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.

(3) The chair shall cause the hearing to be recorded by a method that he/she selects, in accordance with RCW 34.05.449. That recording, or a copy, shall be made available

to the respondent upon request. The chair shall assure maintenance of the proceeding record that is required by RCW 34.05.476, which shall also be available upon request for inspection and copying by the respondent. Other recording shall also be permitted, in accordance with WAC 10-08-190.

(4) The chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee.

(5) The vice-president for student services (unless represented by an attorney) shall present the case for disciplinary action. The facts justifying any such action must be established by a preponderance of the evidence.

(6) All testimony shall be given under oath or affirmation. Evidence shall be admitted or excluded in accordance with RCW 34.05.452.

NEW SECTION

WAC 132F-121-210 Student conduct committee initial order. (1) At the conclusion of the hearing, the committee shall permit the vice-president for student services and the respondent to make closing arguments in whatever form it wishes to receive them. The committee also may permit each party to propose findings, conclusions, and/or an order for its consideration.

(2) Within thirty days following the later of the conclusion of the hearing or the committee's receipt of closing arguments, the committee shall issue an initial order in accordance with RCW 34.05.461 and WAC 10-08-210. This order shall include findings of fact on all material issues of fact and conclusions of law on all material issues of law—including which, if any, specific provisions of the student conduct code were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified.

(3) The committee's order shall also include a determination on appropriate discipline, if any. If the matter was a referral from the vice-president, the committee shall determine any disciplinary sanction. If the matter was an appeal by the respondent, the committee may affirm, reverse, or modify the discipline imposed by the vice-president and/or impose any other disciplinary sanction authorized herein.

(4) The committee chair shall cause copies of its order to be served on the respondent, the vice-president, the college president, and any legal counsel who have appeared. The committee chair shall also promptly transmit the record of the committee's proceedings to the college president.

NEW SECTION

WAC 132F-121-220 President's review and final college order. (1) The college president shall review the record and enter the final college order, in accordance with RCW 34.05.461(2) and 34.05.464.

(2) If either the respondent or the vice-president for student services wishes to file written argument with the president, she/he must file that argument and serve a copy on the other within fifteen days after service of the committee's order. Within seven days after service of any such argument, the other party may file and serve a written response. The

president shall have discretion to modify these deadlines and/or to allow oral arguments. However no new evidence, not already part of the record, may be introduced in any argument, except as expressly authorized by the president upon a showing of compelling legal justification and after any appropriate fact-finding.

(3) The president shall personally consider the whole record or such portions of it as may be cited by the parties. A party's failure to present any argument shall mean that the party is citing "none" of the record.

(4) If the committee's order includes a provision for expulsion, the president must consult with and obtain the agreement of the district chancellor. If the committee's order includes a provision for suspension from any other college(s) of the district, the president must consult with and obtain the agreement of the president(s) of such college(s).

(5) Within ninety days following the later of the conclusion of the hearing or the committee's receipt of closing arguments, the president shall either remand the matter for further proceedings, with instructions to the committee, or enter a final order in the matter. The president shall have all of decision-making power that he/she would have had if presiding over the hearing, including the power to affirm, reverse, or modify any disciplinary sanction.

(6) The president's final order shall include, or incorporate by reference to the committee's initial order, all matters required by RCW 34.05.461, in accordance with RCW 34.05.464. It shall also include notice to the respondent of his/her right to seek judicial review under RCW 34.05.510 et seq.

(7) Copies of the final order shall be served on the respondent, the vice-president, any legal counsel who have appeared, and the committee chair.

(8) The decision of the president shall be the final district action in the matter.

NEW SECTION

WAC 132F-121-230 Reestablishment of academic standing after successful appeal. When a student has missed classes and/or course work due to a disciplinary suspension or expulsion, but that disciplinary sanction was appealed and not upheld, the student shall be given a reasonable opportunity to reestablish his/her academic standing and the alternative of a withdrawal and refund of tuition and fees. Depending on the circumstances, reestablishing academic standing may include opportunities to take examinations and otherwise complete course offerings that were missed due to the disciplinary sanction or to retake the class(es).

NEW SECTION

WAC 132F-121-240 Reinstatement after suspension or expulsion. (1) Any student who has been suspended as a disciplinary sanction shall be reinstated, upon the student's written request, after (a) expiration of the stated time period of the suspension and (b) satisfaction of all conditions of the suspension, if any.

(2) Before a suspension has ended, or if a student has been expelled, the student may petition for reinstatement as

an enrolled student. Any such petition shall be submitted in writing to the vice-president for student services, showing facts and circumstances constituting good cause for such reinstatement. No such reinstatement shall be granted unless it is approved by both that vice-president and the college president.

NEW SECTION

WAC 132F-121-250 Summary and emergency suspensions. (1) As part of a suspension or expulsion, a summary suspension and/or an emergency suspension may be imposed in accordance with this section. All, or specified, rights as an enrolled student may be suspended.

(2) A summary suspension may be imposed when necessary to prevent or avoid immediate disruption, danger, or other harm to the educational process or to the health, safety, or welfare of any member(s) of the public, including the district community. The summary suspension may be ordered only after the respondent has been given oral or written notice of the charge(s) and, if s/he denies them, an explanation of the evidence and an opportunity to respond. The order shall be effective when served. A summary suspension may be ordered:

(a) For ten days or less, by the vice-president; and/or

(b) For any time period through the final determination of a respondent's appeal, by the student conduct committee, upon the written request of the vice-president. The vice-president shall serve a copy of this request on the respondent. Before entering its order, the committee shall hold an initial hearing, as it determines is appropriate.

(3) An emergency suspension may be ordered by the vice-president under RCW 34.05.479 when necessary to prevent or avoid immediate danger to the health, safety, or welfare of any member(s) of the public, including the district community.

(a) Before ordering an emergency suspension, the vice-president shall make reasonable effort to give the respondent oral or written notice of the charge(s) and, if the respondent denies such, an explanation of the evidence and an opportunity to respond.

(b) The vice-president may order the emergency suspension only to the extent, and only for the time period, necessary to prevent or avoid the immediate danger, and only in compliance with RCW 34.05.479. The vice-president shall serve the order on the respondent, or otherwise give him/her such notice as is practicable, and shall also serve a copy on the student conduct committee.

(c) After the emergency suspension order is served, the vice-president and the committee shall proceed as quickly as feasible to complete the appeal proceeding.

NEW SECTION

WAC 132F-121-260 Maintenance of student discipline records. Records of all completed disciplinary cases shall be maintained and disposed of by the vice-president for student services in accordance with applicable records retention requirements and student education record confidentiality requirements.

WSR 03-07-051 PROPOSED RULES HORSE RACING COMMISSION

[Filed March 14, 2003, 1:41 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-03-025.

Title of Rule: WAC 260-20-035 Nonparimutuel wagering prohibited.

Purpose: Repeal WAC 260-20-035 Nonparimutuel wagering prohibited.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: Repealer of WAC 260-20-035 Nonparimutuel wagering prohibited.

Reasons Supporting Proposal: The Washington Horse Racing Commission (WHRC) does not have the authority to promulgate or enforce rules governing any form of gambling except parimutuel wagering.

Name of Agency Personnel Responsible for Drafting: Robert J. Lopez, Olympia, Washington, (360) 459-6462; Implementation and Enforcement: Robert M. Leichner, Olympia, Washington, (360) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The WHRC desires to repeal WAC 260-20-035 Nonparimutuel wagering prohibited. Since 1973 all forms of authorized gambling in the state of Washington with the exception of parimutuel wagering are under the authority of the gambling commission. The WHRC, having no authority over nonparimutuel wagering cannot promulgate or enforce rules prohibiting nonparimutuel wagering.

Proposal Changes the Following Existing Rules: Repeals WAC 260-20-035.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Auburn City Council Chambers, 25 West Main, Auburn, WA 98001, (253) 931-3041, on May 8, 2003, at 10:30 a.m.

Submit Written Comments to: Robert Leichner, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, 98516-5578, fax (360) 459-6461, by May 7, 2003.

Date of Intended Adoption: May 8, 2003.

March 14, 2003

R. M. Leichner

Executive Secretary

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 260-20-035

Nonparimutuel wagering prohibited.

WSR 03-07-052
PROPOSED RULES
HORSE RACING COMMISSION

[Filed March 14, 2003, 1:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-03-038.

Title of Rule: WAC 260-70-610 Storage and shipment of split samples.

Purpose: To amend the rule to require a commission representative pack a split sample in the presence of the owner, trainer or designee.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: Clarifies who shall pack a split sample and who shall be present during packing.

Reasons Supporting Proposal: Adopts into rule the current practice of packing samples at the test barn.

Name of Agency Personnel Responsible for Drafting: Robert J. Lopez, Olympia, Washington, (360) 459-6462; Implementation and Enforcement: Robert M. Leichner, Olympia, Washington, (360) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Purpose of the amendment to the rule is to clarify who must package a split sample and who must be present during the packing.

Proposal Changes the Following Existing Rules: Requires a commission representative to package a split sample in the presence of the owner, trainer or designee.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes will not impose any costs upon businesses in the horse racing industry.

RCW 34.05.328 does not apply to this rule adoption. The rule is not subject to this section under RCW 34.05.328 (5)(a).

Hearing Location: Auburn City Council Chambers, 25 West Main, Auburn, WA 98001, (253) 931-3041, on May 8, 2003, at 10:30 a.m.

Submit Written Comments to: Robert Leichner, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, 98516-5578, fax (360) 459-6461, by May 7, 2003.

Date of Intended Adoption: May 8, 2003.

March 14, 2003

R. M. Leichner

Executive Secretary

AMENDATORY SECTION (Amending WSR 96-10-001, filed 4/17/96, effective 5/18/96)

WAC 260-70-610 Storage and shipment of split samples. (1) Split samples obtained in accordance with WAC 260-70-600, subsection 2b and 2c shall be secured and made available for further testing in accordance with the following procedures:

(a) A split sample shall be secured in the test barn under the same manner as the portion of the specimen acquired for shipment to a primary laboratory until such time as specimens are packed and secured for shipment to the primary laboratory. Split samples shall then be transferred to a freezer at a secure location approved by the commission.

(b) A freezer for storage of split samples shall be equipped with a lock. The lock shall be closed and locked so as to prevent access to the freezer at all times except as specifically provided by these rules.

(c) A freezer for storage of split samples shall be opened only for depositing or removing split samples, for inventory, or for checking the condition of samples.

(d) A log shall be maintained by the official veterinarian that shall be used each time a split sample freezer is opened to specify each person in attendance, the purpose for opening the freezer, identification of split samples deposited or removed, the date and time the freezer was opened, and the time the freezer was closed and to verify that the lock was secured prior to and after opening of the freezer.

(e) Any evidence of a malfunction of a split sample freezer or samples that are not in a frozen condition during storage shall be documented in the log and immediately reported to the stewards or a designated commission representative.

(2) A trainer or owner of a horse may request that a split sample corresponding to the portion of the specimen tested by the primary laboratory be sent to another laboratory approved by the commission. The request must be made in writing and delivered to the stewards not later than 48 hours after the trainer of the horse receives written notice of the findings of the primary laboratory. Any split sample so requested must be shipped within an additional 72 hours.

(3) The owner or trainer requesting testing of a split sample shall be responsible for the cost of shipping and testing. Failure of the owner, trainer or designee to appear at the time and place designated by the official veterinarian shall constitute a waiver of all rights to split sample testing. Prior to shipment, the commission shall confirm the split sample laboratory's willingness to provide the testing requested, the laboratory's willingness to send results to both the person requesting the testing and the commission, and arrangements for payment satisfactory to the split sample laboratory. A split sample testing laboratory must be approved by the commission. The commission shall maintain a list of laboratories approved for testing of split samples.

(4) Prior to opening the split sample freezer, the commission shall provide a split sample chain of custody verification form that shall provide a place for recording the following information and such other information as the official veterinarian may require. The form shall be fully completed during the retrieval, packaging, and shipment of the split sample.

Split sample chain of custody form requirements:

(a) The date and time the sample is removed from the split sample freezer;

(b) The sample number;

(c) The address where the split sample is to be sent;

(d) The name of the carrier and the address where the sample is to be taken for shipment;

- (e) Verification of retrieval of the split sample from the freezer;
- (f) Verification of each specific step of the split sample packaging in accordance with the recommended procedure;
- (g) Verification of the address of the split sample laboratory on the split sample package;
- (h) Verification of the condition of the split sample package immediately prior to transfer of custody to the carrier; and
- (i) The date and time custody of the sample is transferred to the carrier.

(5) A split sample shall be removed from the split sample freezer by a commission representative in the presence of the owner, trainer or designee.

(6) A commission representative (~~(The owner, trainer or designee)~~) shall pack the split sample for shipment in the presence of the (~~representative of the commission~~) owner, trainer or designee, in accordance with the packaging procedures recommended by the commission. A form shall be signed by both the owner's representative and the commission representative to confirm the packaging of the split sample. The exterior of the package shall be secured and identified with initialed tape, evidence tape or other means to prevent tampering with the package.

(7) The package containing the split sample shall be transported to the location where custody is transferred to the delivery carrier charged with delivery of the package to the commission approved laboratory selected by the owner or trainer.

(8) The owner, trainer or designee may inspect the package containing the split sample immediately prior to transfer to the delivery carrier to verify that the package is intact and has not been tampered with.

(9) The split sample chain of custody verification form shall be completed and signed by the representatives of the commission and the owner, trainer or designee. A commission representative shall keep the original and provide a copy for the owner, trainer or designee.

WSR 03-07-053

PROPOSED RULES

HORSE RACING COMMISSION

[Filed March 14, 2003, 1:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-03-039.

Title of Rule: New section WAC 260-48-940 Head-to-head wagering.

Purpose: To allow for wagering to select a winning contestant in a designated contest or series of contests in a competition between two or more betting interests or the skill of the jockey and/or trainer.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: To allow for head-to-head wagering during a race at a Washington race meet.

Reasons Supporting Proposal: To provide greater flexibility in wagering alternatives for the betting public.

Name of Agency Personnel Responsible for Drafting: Robert J. Lopez, Olympia, Washington, (360) 459-6462; Implementation and Enforcement: Robert M. Leichner, Olympia, Washington, (360) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Purpose of the rule is to establish a new section to allow for head-to-head wagering at races at Washington race meets to provide greater wagering flexibility to the betting public.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes will not impose any costs upon businesses in the horse racing industry.

RCW 34.05.328 does not apply to this rule adoption. The rule is not subject to this section under RCW 34.05.328 (5)(a).

Hearing Location: Auburn City Council Chambers, 25 West Main, Auburn, 98001, (253) 931-3041, on May 8, 2003, at 10:30 a.m.

Submit Written Comments to: Robert Leichner, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, 98516-5578, fax (360) 459-6461, by May 7, 2003.

Date of Intended Adoption: May 8, 2003.

March 14, 2003

R. M. Leichner

Executive Secretary

NEW SECTION

WAC 260-48-940 Head-to-head wagering (1) Head-to-head wagering requires the selection of the winning contestant in a designated contest or series of contests, in a competition between two or more equally matched betting interests, or based on the sportsmanship and/or skill of the jockeys and/or trainers, regardless of the official placing of the other betting interests in that contest or series of contests.

(2) The choice of which contestants from a contest shall participate in the head-to-head contest shall be made as follows:

(a) The association must obtain approval from the board of stewards for each head-to-head contest.

(b) The matching of contestants for the head-to-head contest shall be limited to contestant versus contestant, jockey versus jockey, and/or trainer versus trainer.

(c) The contestants chosen for the head-to-head wager shall be conspicuously identified in the official program.

(3) The net head-to-head pool shall be distributed to winning wagers in the following precedence, based on the official order of finish:

(a) As a single price pool to those whose selection finished first in a single head-to-head contest, or first in the

greatest number of a series of head-to-head contests; but if there are no such wagers, then

(b) The head-to-head pool shall be refunded.

(4) If there is a dead heat in a contest involving two or more of the contestants in:

(a) A single-contest head-to-head pool, then the entire pool shall be refunded.

(b) One or more contests of a series, then all the contestants involved in the dead heat shall be considered winners and the net pool shall be distributed as a signal price pool, provided that;

(c) In a series of contests, if there is a dead heat in half or more of the contests then the head-to-head pool for those contests shall be refunded.

(5) If any head-to-head contest is canceled or declared no contest:

(a) In a single-contest head-to-head pool, the pool shall be refunded.

(b) In a series of contests, if half or more of the contests are canceled or declared no contest, then the head-to-head pool for those contests shall be refunded.

(6) If any contestant is scratched or declared a non-starter in any head-to-head contest, then that contest shall be canceled.

(7) If all contestants fail to finish in a head-to-head contest, then that contest shall be canceled.

WSR 03-07-054

PROPOSED RULES

HORSE RACING COMMISSION

[Filed March 14, 2003, 1:43 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-03-067.

Title of Rule: WAC 260-13-420 Payment of Class A and B license fees.

Purpose: To amend WAC 260-13-420 to bring it into compliance with RCW 67.16.050.

Statutory Authority for Adoption: RCW 67.16.040.

Summary: To require Class A and B race tracks to pay a license fee equal to \$200 times the optimum number of racing days sought in the license.

Reasons Supporting Proposal: Compliance with RCW 67.16.050.

Name of Agency Personnel Responsible for Drafting: Robert J. Lopez, Olympia, Washington, (360) 459-6462; Implementation and Enforcement: Robert M. Leichner, Olympia, Washington, (360) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The current rule of \$100 per race day for a Class A and B license fee conflicts with RCW 67.16.050 which mandates a \$200 per race day fee.

Proposal Changes the Following Existing Rules: It sets the license fees for a Class A and B track at \$200 per race day.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Fee is already established in RCW. Amended rule only brings rule into compliance with law.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Auburn City Council Chambers, 25 West Main, Auburn, WA 98001, (253) 931-3041, on May 8, 2003, at 10:30 a.m.

Submit Written Comments to: Robert Leichner, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, 98516-5578, fax (360) 459-6461, by May 7, 2003.

Date of Intended Adoption: May 8, 2003.

March 14, 2003

R. M. Leichner

Executive Secretary

AMENDATORY SECTION (Amending WSR 86-13-056, filed 6/16/86)

WAC 260-13-420 Payment of Class A and B license fees. A Class A or B license does not become effective until the commission receives a certified check or bank draft to the order of the state of Washington equal to two hundred dollars times the optimum number of racing days sought in the license application ~~((in the amount of the license fee as follows))~~ and is void if the license fee is not received within ten days after issuance.

~~(((1) Nonrefundable fee of ten thousand dollars for a Class A license;~~

~~(2) A fee for a Class B license equal to ((one)) two hundred dollars times the optimum number of racing days sought in the license application.))~~ The commission must refund promptly to the licensee any amount by which the fee paid exceeds ~~((one))~~ two hundred dollars times the number of actual days of racing sponsored and managed by the licensee.

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 03-07-055

PROPOSED RULES

HORSE RACING COMMISSION

[Filed March 14, 2003, 1:43 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-03-108.

Title of Rule: WAC 260-70-630 Threshold levels.

Purpose: To specify the quantitative medication levels for those substances deemed permissible in test samples.

Statutory Authority for Adoption: RCW 67.16.020, 67.16.040.

Summary: Certain substances are permissible in test samples up to a quantitative level. This proposal [pro-

posal] specifies those substances and the quantitative levels allowed.

Reasons Supporting Proposal: This is a subject of rule making.

Name of Agency Personnel Responsible for Drafting: Robert J. Lopez, Olympia, Washington, (360) 459-6462; Implementation and Enforcement: Robert M. Leichner, Olympia, Washington, (360) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 260-70-630 Threshold levels is intended to allow the commission to promulgate a list of quantitative medication levels for certain substances permitted in test samples. The preproposal is intended to adopt into rule the list of permitted medications and the quantitative levels allowed.

Proposal Changes the Following Existing Rules: To adopt into rule the list of permitted medications and quantitative levels rather than promulgating the list February 1 of each year.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes will not impose any costs upon businesses in the horse racing industry.

RCW 34.05.328 does not apply to this rule adoption. The rule is not subject to this section under RCW 34.05.328 (5)(a).

Hearing Location: Auburn City Council Chambers, 25 West Main, Auburn, WA 98001, (253) 931-3041, on May 8, 2003, at 10:30 a.m.

Submit Written Comments to: Robert Leichner, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, fax (360) 459-6461, by May 7, 2003.

Date of Intended Adoption: May 8, 2003.

March 14, 2003

R. M. Leichner

Executive Secretary

AMENDATORY SECTION (Amending WSR 96-10-001, filed 4/17/96, effective 5/18/96)

WAC 260-70-630 Threshold levels. (~~On or before February 1 of each year, the commission shall promulgate a list of~~) The following quantitative medication levels (~~for those certain substances which it has determined to be~~) are permissible in test samples up to the stated quantitative levels((-));

Procaine	25 ng/ml urine
Benzocaine	50 ng/ml urine
Mepivacaine	10 ng/ml urine
Lidocaine	50 ng/ml urine
Bupivacaine	5 ng/ml urine
Clenbuterol	5 ng/ml urine

Acepromazine	25 ng/ml urine
Promazine	25 ng/ml urine
Caffeine	100 ng/ml urine
Salicylates	750 ng/ml urine

The official urine test sample may not contain more than one of the above drug substances, including their metabolites or analogs, in an amount up to the specified level. Official blood test samples must not contain any of the drug substances listed in this rule, including their metabolites or analogs.

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 03-07-059

PROPOSED RULES

PERSONNEL RESOURCES BOARD

[Filed March 14, 2003, 3:44 p.m.]

Original Notice.

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

Title of Rule: WAC 251-04-035 Exemptions.

Purpose: This rule pertains to exemptions.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

Summary: This modification reinstates the exemption language for the State Board for Community and Technical Colleges and the board's definitions of student, part-time or temporary employees, and part-time professional consultants.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 664-6348; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule reinstates the language that was repealed at the July board meeting. The language was contained in WAC 251-04-040. The rule reinstates the exemption language for the State Board for Community and Technical Colleges and board's definition of student, part-time or temporary employees, and part-time professional consultants. Since the language being proposed is not contained in chapter 41.06 RCW, there is a need for it to be reinstated.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on May 8, 2003, at 10:00 a.m.

PROPOSED

Assistance for Persons with Disabilities: Contact Department of Personnel by May 1, 2003, TDD (360) 753-4107 or (360) 586-8260.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, fax (360) 586-4694, by May 6, 2003.

Date of Intended Adoption: May 8, 2003.

May 13, 2003

E. C. Matt

Secretary

PROPOSED

NEW SECTION

WAC 251-04-035 Exemptions. The provisions of this chapter do not apply to positions listed in RCW 41.06.070 and to the following:

(1) The executive director, his/her confidential secretary, assistant directors, and professional education employees of the state board for community and technical colleges.

(2) The following definitions are hereby established as the criteria for identifying positions occupied by student, part-time or temporary employees, and part-time professional consultants that are exempt from the provisions of this chapter.

(a) Students employed by the institution at which they are enrolled (or related board) and who either:

(i) Work five hundred sixteen hours or less in any six consecutive months, exclusive of hours worked in a temporary position(s) during the summer and other breaks in the academic year, provided such employment does not take the place of a classified employee laid off due to lack of funds or lack of work; or fill a position currently or formerly occupied by a classified employee during the current or prior calendar or fiscal year, whichever is longer;

(ii) Are employed in a position directly related to their major field of study to provide a training opportunity; or

(iii) Are elected or appointed to a student body office or student organization position such as student officers or student news staff members.

(b) Students participating in a documented and approved programmed internship which consists of an academic component and work experience.

(c) Students employed through the state or federal work/study programs.

(d) Students employed to work one thousand fifty hours or less in any twelve consecutive month period from the original date of hire or October 1, 1989, whichever is later. Such an appointment may be subject to remedial action in accordance with WAC 251-12-600, if the number of hours worked exceeds one thousand fifty hours in any twelve consecutive month period from the original date of hire or October 1, 1989, whichever is later, exclusive of overtime or work time as described in subsection (2)(a) of this section.

(e) Part-time professional consultants retained on an independent part-time or temporary basis such as physicians, architects, or other professional consultants employed on an independent contractual relationship for advisory purposes and who do not perform administrative or supervisory duties.

WSR 03-07-067

PROPOSED RULES

WASHINGTON STATE LOTTERY

[Filed March 17, 2003, 2:34 p.m.]

Continuance of WSR 03-01-047.

Preproposal statement of inquiry was filed as WSR 02-21-024.

Title of Rule: WAC 315-04-065 Promotional license.

Purpose: To provide for the issuance of a retailer license for a limited promotional period.

Statutory Authority for Adoption: RCW 67.70.040.

Statute Being Implemented: RCW 67.70.040.

Summary: WAC 315-04-065 will set for the requirements to permit the director to issue a retailer license for a limited promotional period.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Anthony S. Molica, Director, Olympia, (360) 664-4800.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The new rule specifies that the director may establish criteria for licensing retailers to sell lottery tickets for a limited promotional period. The director may take into consideration the duration of the promotion and the variety and quantity of the tickets to be sold by the retailer.

Proposal does not change existing rules.

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 because the rules impose no more than minor, if any, costs on businesses and have negligible impact on the conduct of businesses.

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: Oxford Suites, 1701 East Yakima Avenue, Yakima, WA 98901, on May 15, 2003, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Ceil Buddeke by April 13, 2003, TDD (360) 586-0933 or (360) 664-4831.

Submit Written Comments to: Ceil Buddeke, Legal Counsel, fax (360) 586-6586, by April 13, 2003.

Date of Intended Adoption: May 15, 2003.

March 17, 2003

Anthony S. Molica

Lottery Director

NEW SECTION

WAC 315-04-065 Promotional license. (1) The director may issue a promotional license for a marketing promotion for a period not exceeding one hundred eighty days for the sale of scratch and/or on-line game tickets.

(2) The director may establish financial and criminal history or other criteria for the issuance of a promotional license

based on the duration of the promotion and the variety and quantity of tickets to be sold by the applicant.

(3) The director may waive any license fees or charges in issuing a promotional license and may establish procedures to streamline payments by promotional retailers to the lottery.

(4) Any retailer issued a promotional license must apply for and be issued a provisional/general license as set forth in chapter 315-04 WAC and lottery policy in order to continue to sell lottery tickets after the expiration of his/her promotional license.

WSR 03-07-070

WITHDRAWAL OF PROPOSED RULES SUPERINTENDENT OF PUBLIC INSTRUCTION

(By the Code Reviser's Office)

[Filed March 18, 2003, 8:41 a.m.]

WAC 392-140-908 and 392-140-912, proposed by the Superintendent of Public Instruction in WSR 02-18-040 appearing in issue 02-18 of the State Register, which was distributed on September 18, 2002, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 03-07-074

PROPOSED RULES HORSE RACING COMMISSION

[Filed March 18, 2003, 1:12 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-22-023 on October 28, 2002.

Title of Rule: New section WAC 260-32-005 Use of communications equipment prohibited in the jockey's quarters, paddock and racing surface.

Purpose: To control the use of communications devices in the jockey's quarters, paddock and race surface.

Statutory Authority for Adoption: RCW 67.16.020.

Summary: To prohibit any form of two-way communications devices in the jockey's quarters, paddock or race surface when these areas are in use.

Reasons Supporting Proposal: To ensure the safety of the jockey and contestants and to eliminate fraudulent activity.

Name of Agency Personnel Responsible for Drafting: Robert Lopez, Olympia, Washington, (360) 459-6462; Implementation and Enforcement: Robert Leichner, Olympia, Washington, (360) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of this new section is to control the use of any communications devices in the jockey's quarters, paddock and race surface when these areas are actively in use. The section is intended to ensure the safety of the jockeys and contestants to prevent fraudulent activity to occur.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes will not impose any costs upon businesses in the horse racing industry.

RCW 34.05.328 does not apply to this rule adoption. The rule is not subject to this section under RCW 34.05.328 (5)(a).

Hearing Location: Auburn City Council Chambers, 25 West Main, Auburn, WA 98001, (253) 931-3041, on May 10, 2003, at 10:30 a.m.

Submit Written Comments to: Robert Leichner, Washington Horse Racing Commission, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6461, by May 9, 2003.

Date of Intended Adoption: May 10, 2003.

March 17, 2003

R. M. Leichner

Executive Secretary

NEW SECTION

WAC 260-32-005 Use of communications equipment prohibited in the jockey's quarters, paddock and racing surface. Except as expressly authorized by the stewards, all cell phones, pagers and other voice and data communications devices must be turned off in the jockey's quarters, paddock and on the racing surface when these areas are actively in use.

WSR 03-07-080

PROPOSED RULES DEPARTMENT OF LICENSING

[Filed March 18, 2003, 2:10 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-24-001.

Title of Rule: Chapter 308-56A WAC, Certificate of title—Motor vehicles, etc.

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

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

Statutory Authority for Adoption: RCW 46.01.110, 46.12.101, 88.02.070.

Summary: Amend WAC 308-56A-021 Assessment criteria for penalty fee.

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

Name of Agency Personnel Responsible for Drafting: Katherine Iyall Vasquez, 1125 Washington Street S.E., Olympia, (360) 902-3718; Implementation and Enforcement:

Eric Andersen, 1125 Washington Street S.E., Olympia, (360) 902-4045.

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

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

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

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

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

Hearing Location: Highways-Licenses Building, Conference Room 107, 1125 Washington Street S.E., Olympia, WA 98507, on April 23, 2003, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Katherine Iyall Vasquez by April 22, 2003, TTY (360) 664-8885 or (360) 902-3718.

Submit Written Comments to: Katherine Iyall Vasquez, Rules Manager, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, fax (360) 664-0831, by April 22, 2003.

Date of Intended Adoption: May 20, 2003.

March 18, 2003

D. McCurley, Administrator
Title and Registration Services
by Katherine Vasquez

AMENDATORY SECTION (Amending WSR 01-08-022, filed 3/27/01, effective 4/27/01)

WAC 308-56A-021 Assessment criteria for penalty fee. (1) **What is the penalty fee?** When a used Washington registered vehicle (~~(with a Washington certificate of ownership)~~) is sold, the purchaser has fifteen days from the date of delivery of the vehicle to transfer the vehicle ownership into their name. If they wait until the 16th day or later from the date of sale, a penalty fee may be assessed as described in RCW 46.16.101(6) unless the purchaser qualifies for exemption from penalty as set forth in subsection (2) of this section.

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

- (a) The vehicle was delivered to the purchaser after the date of sale indicated on the supporting documents;
- (b) There are conflicting dates on supporting documents;
- (c) There is no date on the certificate of ownership or other supporting documents;
- (d) The date on the certificate of ownership has been altered;
- (e) The purchaser is incarcerated or sequestered by a judiciary system;

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

(g) The purchaser of a vehicle sells it before transferring ownership into their name and the new purchaser can prove they purchased the vehicle within fifteen days of making application; ((or))

(h) The director, or their designee, determines other reasons are valid;

(i) The delay in making application is due to the department requesting additional supporting documents;

(j) Extended hospitalization or illness of the purchaser;

(k) Failure of the legal owner to release his or her interest in the vehicle; or

(l) Due to an action of the department, auditor or sub-agent.

Note: ~~((Subsection (2)(a) through (g) of this section require))~~ When an exception to the penalty fee requirement is made, an affidavit attesting to the actual date of delivery and the reason or reasons for exception to the penalty is required.

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

- (a) The vehicle is not motorized;
- (b) The vehicle is sold by a Washington dealer (dealer report of sale box on the application is completed);
- (c) A Washington record cannot be found;
- (d) Department of licensing records indicate the vehicle has been destroyed;
- (e) The vehicle is being titled as home made or assembled for the first time;
- (f) The vehicle is acquired as a result of:
 - (i) Inheritance or community property;
 - (ii) Divorce settlement;
 - (iii) Other legal action affecting ownership of the vehicle;
 - (iv) Lease buyout;
 - (v) The vehicle is a snowmobile; or
 - (vi) The director, or designee, determines other reasons are valid.

WSR 03-07-081

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed March 18, 2003, 2:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-03-131.

Title of Rule: Chapter 16-400 WAC, Fruit and vegetable inspection fees. (1) Change the hourly regular and overtime inspection rates and (2) establish a fee structure for good agricultural practices (GAP) and good handling practices (GHP) audits.

Purpose: Raise fees within fiscal growth factor, current fees are below actual costs of providing services. Alignment of inspection charges with inspection practices and proce-

dures. Adopt the federal market inspection charges for good agricultural practices and good handling practices audits inspections.

Statutory Authority for Adoption: Chapter 15.17 RCW. Statute Being Implemented: RCW 15.17.030.

Summary: The purpose of this rule is to: (1) Increase the regular and overtime hourly inspection rate within the fiscal growth factors allowed under Initiative 601. The current hourly rate of \$24.30 per hour is not sufficient to recover the actual per hour expenses; and (2) adopt the federal market inspection charges to establish a fee structure for good agricultural practices and good handling practices audits performed under the USDA federal/state audit program.

Reasons Supporting Proposal: See Summary above and Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jim Quigley, Olympia, Washington, (360) 902-1833.

Name of Proponent: Department of Agriculture, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Current hourly fees are \$24.30 per hour, which is not sufficient to recover actual per hour expenses.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of this rule is to: (1) Increase the regular and overtime hourly inspection rate within the fiscal growth factors allowed under Initiative 601. The current hourly rate of \$24.30 per hour is not sufficient to recover the actual per hour expenses. The increased inspection rate will reduce the proportionate disparity of inspection costs between the high volume warehouses and the lower volume warehouses. High volume warehouses are generally assessed fees on a per unit bases, which usually meets or exceeds the hourly rate for the total inspection time. The lower volume warehouses are assessed fees on a per unit basis in addition to the hourly rate to compensate for the total inspection time; and (2) adopt the federal market inspection charges to establish a fee structure for audits performed for the good agricultural practices (GAP) and good handling practices (GHP) under the USDA federal/state audit program. The fee structure will allow for the audit time, compensation for travel time when applicable, and mileage at the state rate when applicable, which is the same fee structure implemented by USDA.

Proposal Changes the Following Existing Rules: Increase the hourly inspection rates from \$24.30 to \$25.09 per hour on June 30, 2003, and to \$25.89 per hour on July 1, 2003. Increase the overtime inspection rates from \$33.02 to \$34.10 per hour on June 30, 2003, and to \$35.19 per hour on July 1, 2003. Establish a hourly fee for good agricultural practices and good handling practices audits at the rate of the federal market inspection charge of \$43.00 per hour plus travel time and mileage where applicable.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The financial impact, if any, will be minimal and does not represent a disproportionate cost to small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: Washington Apple Commission, 2900 Euclid Avenue, Wenatchee, WA, on April 23, 2003, at 1:00 p.m.; and at the Yakima Agriculture Center, 21 North 1st Avenue, Yakima, WA, on April 24, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Laurie Crose by April 22, 2003, TDD (360) 902-1976.

Submit Written Comments to: Jim Quigley, Program Manager, WSDA Fruit and Vegetable Inspection Program, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-1833, by April 25, 2003.

Date of Intended Adoption: May 5, 2003.

March 3, 2003

Robert W. Gore

Assistant Director

PROPOSED

AMENDATORY SECTION (Amending WSR 01-11-086, filed 5/16/01, effective 6/16/01)

WAC 16-400-040 Grade and condition certificates—Vegetables. Charges for grade and condition certificates for all vegetables shall be:

(1) The minimum charge for all vegetables shall be nine dollars.

(2) Charges for grade and condition certificates for fresh market vegetables in containers - wrapped, place pack, face and fill, in bags, master containers, consumer packages, or loose in bulk cartons, boxes, crates, bins or in bags per cwt. or fraction thereof:

(a) For federal-state certification:

Asparagus	21¢
Cantaloupes, and corn	12.5¢
Onions	8¢
Potatoes, and seed potatoes	6¢
Processing potatoes	6¢
Complete inspection (rate shall be reduced for level of service required)	
Tomatoes	19¢

(b) For state certification:

Asparagus	19¢
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(3) Inspection fees for cabbage, carrots, cauliflower, celery, cucumbers, lettuce, rhubarb, rutabagas, squash, watermelons, etc., shall be at the hourly rate of (~~twenty-three~~) twenty-five dollars and (~~sixty-six~~) nine cents beginning June 30, (~~2001~~) 2003, and (~~twenty-four~~) twenty-five dollars and (~~thirty~~) eighty-nine cents beginning July 1, (~~2001~~) 2003.

(4) Inspection for quality, condition, and/or size determination, whether in bulk or in containers, for all vegetables for processing, except potatoes, charges shall be two dollars fifty cents per ton net weight or fraction thereof. When inspection is requested only for the purpose of verifying the product, conveyance, markings, or other factors not related to quality, the charges shall be at the hourly rate, but not less than the minimum certificate charge of nine dollars.

AMENDATORY SECTION (Amending WSR 01-11-086, filed 5/16/01, effective 6/16/01)

WAC 16-400-100 Certificates. Certificate charges shall be in accordance with the following provisions:

(1) Consolidation certificates shall be charged as specified in WAC 16-400-010 and 16-400-040 and shall have an additional charge of three dollars for each additional local lot.

(2) Condition certificate charges shall be two-thirds of the grade and condition certificates with the following exceptions:

(a) Previously inspected lots shall have a minimum charge of nine dollars.

(b) When the lot has had no prior inspection for quality or grade and it is requested that the certificate carry out-bound car, truck, or state lot number, the grade and condition certificate schedule shall apply.

(c) Out-of-state products reported on state certificates shall be charged on the applicable grade and condition certificate schedule, except there shall be an hourly charge of ~~((twenty-three))~~ twenty-five dollars and ~~((sixty-six))~~ nine cents beginning June 30, ~~((2001))~~ 2003, and ~~((twenty-four))~~ twenty-five dollars and ~~((thirty))~~ eighty-nine cents beginning July 1, ~~((2001))~~ 2003.

(d) For lots of controlled atmosphere storage apples which were previously certified, a state condition certificate or quality control inspection may be issued without additional charge.

(3) Car hook-up, loading or unloading certificate shall be charged at the rates specified in subsection (2)(a) of this section.

(4) Sanitary and quarantine certificate charges for fruits and vegetables shall be:

(a) Six dollars for the issuance of a certificate, plus the hourly rates specified in WAC 16-400-210 (1)(a) when the shipment is not covered by federal-state or state certificates.

(b) Six dollars per set when the shipment is covered by federal-state or state certificates.

(5) Container weight, or checkloading certificates shall be charged at the rates specified in WAC 16-400-210 (1)(a).

(6) Federal-state certification shall meet the criteria for sampling as established by United States Department of Agriculture, Agricultural Marketing Service. When the federal-state inspector or inspector's aide must physically obtain samples from lots blocked out for loading or from lots in storage, charges of seven and one-half cents per cwt. shall be made in addition to inspection fees. When assistance is provided by the applicant's personnel, charges for sampling shall be reduced accordingly.

AMENDATORY SECTION (Amending WSR 01-11-086, filed 5/16/01, effective 6/16/01)

WAC 16-400-210 Other charges. Other miscellaneous charges are listed below:

(1) Charges for platform inspection shall be:
(a) Platform inspections, time taking samples, extra time, phytosanitary and/or quarantine inspection, and all other services, shall be charged at the hourly rate of ~~((twenty-three))~~ twenty-five dollars and ~~((sixty-six))~~ nine cents beginning

June 30, ~~((2001))~~ 2003, and ~~((twenty-four))~~ twenty-five dollars and ~~((thirty))~~ eighty-nine cents beginning July 1, ~~((2001))~~ 2003.

(b) Time allowance—Where a platform inspector is working full time at one house and also doing certification inspection, the inspector shall allow credit for the time according to limits outlined in the schedule for such certification at the hourly rate of ~~((twenty-three))~~ twenty-five dollars and ~~((sixty-six))~~ nine cents beginning June 30, ~~((2001))~~ 2003, and ~~((twenty-four))~~ twenty-five dollars and ~~((thirty))~~ eighty-nine cents beginning July 1, ~~((2001))~~ 2003.

Should the certificate charges divided by the respective hourly rates equal or exceed the number of hours worked, no platform charge shall be assessed. Should the certificate charges divided by the respective hourly rates be less than the number of hours worked, the platform charge shall be made to bring the total to the appropriate charge.

(2) Fumigation charges—The minimum charge for supervision of fumigation shall be eighteen dollars. Additional or unnecessary stand-by time shall be charged as specified in subsection (1)(a) of this section. In temporary, non-permanent facilities or those lacking adequate devices for maintenance of acceptable treatment temperatures, no fumigations shall be started after 3:00 p.m. from October 1 to May 31, nor after 10:00 p.m. from June 1 to September 30.

(3) Field or orchard inspections made at the applicant's request for determination of presence or absence of disease or insect infestation, or for other reason, shall be at the rate of two dollars fifty cents per acre or fraction thereof or at the rate specified in subsection (1)(a) of this section except as otherwise provided in subsection (13) of this section.

(4) Seed sampling fees shall be arranged with the plant services division for services performed.

(5) Extra charges on services provided shall be assessed according to provisions listed below.

(a) The minimum inspection charge for each commodity and requested form shall be at the rate specified in subsection (1)(a) of this section.

(b) If, through no fault of the inspection service, time over the maximum allowance as supported by unit rates for each commodity and requested form is required, such excess time shall be at the rate as specified in subsection (1)(a) of this section.

(c) For all inspection services performed beyond a regularly scheduled eight-hour week day shift or on Saturdays, or Sundays, or state legal holidays, an hourly charge shall be made equivalent to ~~((thirty-two))~~ thirty-four dollars and ~~((fourteen))~~ ten cents beginning June 30, ~~((2001))~~ 2003, and ~~((thirty-three))~~ thirty-five dollars and ~~((two))~~ nineteen cents beginning July 1, ~~((2001))~~ 2003.

These charges shall be made for actual hours spent in performance of duties. This shall include unit charges, plus, if necessary, overtime charges to equal the respective overtime hourly rates.

The following are state legal holidays: New Year's Day, Veteran's Day, Memorial Day (the last Monday of May), Independence Day, Labor Day (the first Monday in September), Thanksgiving Day (the fourth Thursday in November) and the day following Thanksgiving Day, Christmas Day,

PROPOSED

Martin Luther King, Jr. Day (third Monday in January), and Presidents' Day (third Monday in February).

(d) When the per unit charge for inspection in any one day equals or exceeds the basic hourly and/or overtime charge, no additional hourly or overtime charges shall be assessed.

(6) Mileage—Whenever necessary, mileage shall be charged at the rate established by the state office of financial management.

(7) Electronic transmission of documents—Telegrams, facsimile, or electronic transmission of inspection documents shall be charged at the rate of four dollars per transmission in addition to Western Union charges made directly to the applicant.

(8) Services provided to other agencies—Services provided to other agencies, commissions, and organizations shall be charged at the rate specified in subsection (1)(a) of this section.

(9) Timely payment—Payment of fees and charges is due within thirty days after date of statement, provided:

(a) If payment is not received within thirty days, service may be withheld until the delinquent account is paid; or

(b) In the case of such delinquent accounts, cash payment for subsequent service may be required; and

(c) A penalty of eighteen percent per annum shall be assessed on the delinquent account balance.

(10) USDA positive lot identification—Certification utilizing positive lot identification shall be charged at the rates specified in this section and WAC 16-400-010, 16-400-040, and 16-400-100. An additional charge of ten percent may be added when an inspector is required to be on-site when no other inspections are requested. Service will be provided first in those instances in which positive lot identification is a mandatory condition of the sales transaction. Other requests for positive lot identification will be serviced upon adequate notification to the inspection service and availability of inspection personnel.

(11) Controlled atmosphere license fee—The application for an annual license to engage in the business of operating a controlled atmosphere storage warehouse or warehouses shall be accompanied by an annual license fee of five dollars per room, with a minimum fee established at twenty-five dollars for five rooms or less.

(12) Inspection fees may be waived on inspections of fruits and vegetables when donated to bona fide nonprofit organizations: Provided, That shipping containers shall be conspicuously labeled or marked as "not for resale."

(13) For apple pest certification by survey method; \$.0075 per cwt. or fraction thereof, on all fresh apples produced in the state of Washington or marketed under Washington state grades and standards.

NEW SECTION

WAC 16-400-215 Fresh produce audit verification program—Good agricultural practices (GAP) and good handling practices (GHP)—Fruits and vegetables. Charges for good agricultural practices (GAP) and good han-

dling practices (GHP) audit verifications certificates issued under this section shall be:

(1) At the rate of the federal market inspection hourly charge of forty-three dollars.

(2) Time allowance—When applicable, travel time to and from the audit verification site shall be charged at the hourly rate of forty-three dollars.

(3) Mileage—Whenever necessary, mileage shall be charged at the rate established by the state office of fiscal management.

WSR 03-07-082

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed March 18, 2003, 2:44 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 01-04-092.

Title of Rule: Chapter 16-238 WAC, WSDA grain inspection program—Fee schedule.

The Washington State Department of Agriculture (WSDA) proposes repealing the current chapter 16-238 WAC, WSDA grain inspection program—Fee schedule, and replacing it with new chapter 16-239 WAC, WSDA grain inspection program—Definitions, standards, fees and charges, which is rewritten in a clear and readable style and reorganized and reformatted so the rule is easier to understand and use.

Purpose: The purpose of the proposed rule is twofold:

(1) Increase current grain inspection fees by the Office of Financial Management (OFM) fiscal growth rate factors for fiscal year 2003 (3.29%) and for fiscal year 2004 (3.2%). These proposed increases help cover the program's increased cost of doing business due to inflation and increased service requests. They are necessary if the program is going to continue to provide the level of services that the industry expects from it and continue to comply with RCW 22.09.790, which requires that the department must recover the costs it incurs for inspecting, weighing and grading grain.

(2) Rewrite current chapter 16-238 WAC in clear and readable language so it is easier to understand. In addition, the chapter was reorganized and reformatted so it is easier to understand and use. Since the proposed changes in language and format are quite extensive, the program decided to repeal chapter 16-238 WAC and replace it with chapter 16-239 WAC. **With the exception of the fee increases, no new requirements are contained in chapter 16-239 WAC.** The requirements in chapter 16-239 WAC are the same as those in chapter 16-238 WAC; they have simply been rewritten and reformatted to improve the rule's clarity.

Statutory Authority for Adoption: RCW 22.09.790 and chapter 34.05 RCW.

Statute Being Implemented: Chapter 22.09 RCW.

Summary: See Purpose above.

Reasons Supporting Proposal: (1) The fee increases are necessary to comply with RCW 22.09.790. They help offset increased costs incurred in providing program services and

help maintain operating reserves appropriate for a program supported entirely by user fees.

(2) The rewriting of the rule in clear and readable language within the context of a "user friendly" format is the result of the department's on-going rule review mandated by Executive Order 97-02. Changes in language and format have been made to comply with the executive order's "clarity" criteria. In addition, rewriting the rule was undertaken to comply with RCW 34.05.220(5), which states: "To the extent practicable, any rule proposed or adopted by an agency should be clearly and simply stated, so that it can be understood by those required to comply."

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

Name of Proponent: Grain Inspection Advisory Committee, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The proposed fee increases are within the allowable fiscal growth factors established by the OFM for fiscal years 2003 and 2004.

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

Explanation of Rule, its Purpose, and Anticipated Effects: (1) Chapter 16-239 WAC is a rewrite of the current chapter 16-238 WAC in plain English wherever possible. With the exception of the increase in fees, no requirement in the current chapter 16-238 WAC has been changed. Except for the fee increases, the requirements in chapters 16-238 and 16-239 WAC are identical. It is anticipated that the new, clearly written rule will result in:

- Better understanding of grain inspection rule requirements by industry;
- Increased compliance with those requirements by industry; and
- Better enforcement of those requirements by program staff.

(2) In the new chapter, the rule sections contained in chapter 16-238 WAC have been rearranged into a more logical sequence, retitled to reflect section content and rewritten into shorter, more focused sections so they are easier to read and understand. Although this approach results in an increased number of rule sections when compared with the current rule, it is anticipated that the user will find the shorter, focused and accurately titled rule sections much easier to use than the long, cumbersome sections in the current rule.

(3) Chapter 16-239 WAC reflects user fees increased by the OFM fiscal growth rate factors for fiscal year 2003 (3.29%), effective June 30, 2003, and for fiscal year 2004 (3.20%), effective July 1, 2003. It is anticipated that these increases in hourly and unit fees will provide the program with sufficient revenue to comply with RCW 22.09.790 and be able to continue [to] provide industry with the level of service that it deserves and expects.

(4) Fees and rates in chapter 16-239 WAC is presented using a tabular format. It is anticipated that both industry and program staff will find this format easier to use and understand.

Proposal Changes the Following Existing Rules: The following table summarizes the differences and similarities between the current chapter 16-238 WAC and proposed chapter 16-239 WAC:

Chapter 16-238 WAC	Chapter 16-239 WAC	Summary Comments
WSDA GRAIN INSPECTION PROGRAM—FEE SCHEDULE	WSDA GRAIN INSPECTION PROGRAM—DEFINITIONS, STANDARDS, FEES AND CHARGES	Changed chapter title to more accurately reflect chapter content.
CURRENT WAC SECTIONS	PROPOSED WAC SECTIONS	
16-238-010 Definitions.	16-239-010 Definitions.	<ul style="list-style-type: none"> • Definitions are listed in alphabetical order for ease of use. • Where needed, definitions are rewritten and reformatted for clarity. • A new definition, "Official commercial inspection services," was added because the term is used in the rule without definition. • One current definition, "Occasional work stoppage," was deleted because it is an unnecessary carryover from previous versions of the fee schedule.
16-238-020 Grain and commodity inspection points.	16-239-020 Washington state grain and commodity inspection points.	Reformatted for easier reading.
16-238-030 General provisions for assessment of fees.	16-239-060 Guarantee of expenses.	<p>Current WAC 16-238-030 is extremely long and difficult to use. The proposed rule:</p> <ul style="list-style-type: none"> • Breaks the current long section down into smaller sections dealing with specific topics to increase the rule's usefulness.

PROPOSED

Chapter 16-238 WAC	Chapter 16-239 WAC	Summary Comments
WSDA GRAIN INSPECTION PROGRAM—FEE SCHEDULE	WSDA GRAIN INSPECTION PROGRAM—DEFINITIONS, STANDARDS, FEES AND CHARGES	Changed chapter title to more accurately reflect chapter content.
CURRENT WAC SECTIONS	PROPOSED WAC SECTIONS	
		<ul style="list-style-type: none"> • Each short section has a title that clearly identifies the section's content. • Each short section is rewritten and reformatted to make its content easier to understand. • Requirements in chapter 16-239 WAC sections are identical to the requirements in WAC 16-238-030.
	16-239-061 Guaranteed staffing levels.	
	16-239-062 Additional fees to cover insufficient revenue at export locations.	
	16-239-063 Official commercial inspection services.	
	16-239-064 Calculating travel time, mileage and per diem.	
	16-239-065 Payment of fees and charges.	
	16-239-070 Basic WSDA grain program fees for service.	
	16-239-071 Straight time rate.	
	16-239-072 GIPSA/FGIS scale authorization fee.	
	16-239-073 Overtime and night shift rates.	
	16-239-074 Late notice fee.	
	16-239-075 Callback fee.	
	16-239-076 Shift request fee.	
	16-239-077 Shift cancellation fee.	
	16-239-078 Four-hour minimum standby fee.	
	16-239-079 Service cancellation fee.	
16-238-060 Fees for official sampling, inspection, and/or weighing services under the United States Grain Standards Act.	16-239-080 Fees for official sampling, inspecting, and/or weighing services under the United States Grain Standards Act.	<p>Current WAC 16-238-060 is extremely long and difficult to use. The proposed rule:</p> <ul style="list-style-type: none"> • Breaks the current long section down into smaller sections dealing with specific topics to increase the rule's usefulness. • Each short section has a title that clearly identifies the section's content. • Each short section is rewritten and reformatted to make its content easier to understand. • Requirements, except for the increased fees, are identical to the requirements in WAC 16-238-060. • Fee rates, effective June 30, 2003, are the result of increasing current rates by the OFM fiscal growth rate factor for FY 2003 (3.29%).

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PROPOSED

Chapter 16-238 WAC	Chapter 16-239 WAC	Summary Comments
WSDA GRAIN INSPECTION PROGRAM—FEE SCHEDULE	WSDA GRAIN INSPECTION PROGRAM—DEFINITIONS, STANDARDS, FEES AND CHARGES	Changed chapter title to more accurately reflect chapter content.
CURRENT WAC SECTIONS	PROPOSED WAC SECTIONS	
		<ul style="list-style-type: none"> • Fee rates, effective July 1, 2003, are the result of increasing the June 30, 2003, rates by the OFM fiscal growth rate factor for FY 2004 (3.2%). • Presents fee information and rates in a tabular format for clarity and ease of use.
	16-239-0801 Fees for combination inspection and weighing services.	
	16-239-0802 Fees for official sampling and inspecting without weighing and fees for official sampling only.	
	16-239-0803 Fees for official Class X weighing services without an inspection.	
	16-239-0804 Fees for other official weighing services.	
	16-239-0805 Fees for inspecting submitted samples.	
	16-239-0806 Fees for factor analysis.	
	16-239-0807 Fees for official constituent analysis using near-infrared transmittance (NIRT) technology.	
	16-239-0808 Fees for qualitative or quantitative testing for the presence of Mycotoxins using USDA approved "ELISA" or "Fluorometric" methods.	
	16-239-0809 Fees for stowage examination services on vessels or ocean-going barges.	
	16-239-0810 Fees for other stowage examination services.	
	16-239-0811 Fees for phytosanitary certification.	
	16-239-0812 Fees for miscellaneous services.	
	16-239-0813 Fees for other services under the United States Grain Standards Act.	
16-238-070 Fees for official services under the Agricultural Marketing Act of 1946.	16-239-090 Fees for performing official Agricultural Marketing Act of 1946 services.	<p>Current WAC 16-238-070 is extremely long and difficult to use. The proposed rule:</p> <ul style="list-style-type: none"> • Breaks the current long section down into smaller sections dealing with specific topics to increase the rule's usefulness. • Each short section has a title that clearly identifies the section's content.

Chapter 16-238 WAC	Chapter 16-239 WAC	Summary Comments
WSDA GRAIN INSPECTION PROGRAM—FEE SCHEDULE	WSDA GRAIN INSPECTION PROGRAM—DEFINITIONS, STANDARDS, FEES AND CHARGES	Changed chapter title to more accurately reflect chapter content.
CURRENT WAC SECTIONS	PROPOSED WAC SECTIONS	
		<ul style="list-style-type: none"> • Each short section is rewritten and reformatted to make its content easier to understand. • Requirements, except for the increased fees, are identical to the requirements in WAC 16-238-070. • Fee rates, effective June 30, 2003, are the result of increasing current rates by the OFM fiscal growth rate factor for FY 2003 (3.29%). • Fee rates, effective July 1, 2003, are the result of increasing the June 30, 2003, rates by the OFM fiscal growth rate factor for FY 2004 (3.2%). • Presents fee information and rates in a tabular format for clarity and ease of use.
	16-239-0901 Fees for combination inspection and weighing services.	
	16-239-0902 Fees for official sampling and inspecting without weighing and fees for official sampling only.	
	16-239-0903 Fees for official weighing services without inspections.	
	16-239-0904 Fees for other official weighing services.	
	16-239-0905 Fees for inspection of submitted samples.	
	16-239-0906 Fees for factor analysis.	
	16-239-0907 Fees for qualitative or quantitative testing for the presence of Mycotoxins using USDA approved "ELISA" or "Fluorometric" methods.	
	16-239-0908 Fees for stowage examination services on vessels or ocean-going barges.	
	16-239-0909 Fees for other stowage examination services.	
	16-239-0910 Fees for phytosanitary certification.	
	16-239-0911 Fees for miscellaneous services.	
	16-239-0912 Fees for other services under the Agricultural Marketing Act of 1946.	

PROPOSED

PROPOSED

Chapter 16-238 WAC	Chapter 16-239 WAC	Summary Comments
WSDA GRAIN INSPECTION PROGRAM—FEE SCHEDULE	WSDA GRAIN INSPECTION PROGRAM—DEFINITIONS, STANDARDS, FEES AND CHARGES	Changed chapter title to more accurately reflect chapter content.
CURRENT WAC SECTIONS	PROPOSED WAC SECTIONS	
16-238-082 Fees for services performed under state regulation or standards or "as specified" by the applicant for service when no official standards exist.	16-239-100 Fees for services performed under state regulation or standards and for services "as specified" by the applicant when no official standards exist.	<p>The proposed rule:</p> <ul style="list-style-type: none"> • Breaks the current WAC 16-238-082 down into smaller sections dealing with specific topics to increase the rule's usefulness. • Each short section has a title that clearly identifies the section's content. • Each short section is rewritten and reformatted to make its content easier to understand. • Requirements, except for the increased fees, are identical to the requirements in WAC 16-238-082. • Fee rates, effective June 30, 2003, are the result of increasing current rates by the OFM fiscal growth rate factor for FY 2003 (3.29%). • Fee rates, effective July 1, 2003, are the result of increasing the June 30, 2003, rates by the OFM fiscal growth rate factor for FY 2004 (3.2%). • Presents fee information and rates in a tabular format for clarity and ease of use.
	16-239-1010 Fees for inspecting miscellaneous agricultural commodities under chapter 16-213 WAC.	
	16-239-1020 Fees for miscellaneous services.	
	16-239-1030 Fees for services not specifically identified in WAC 16-239-1010 and 16-239-1020.	
16-238-090 Covered commodities.	16-239-030 Commodities covered by chapter 22.09 RCW.	<ul style="list-style-type: none"> • Title rewritten for clarity. • Rewritten and reformatted for clarity. • Moved to beginning of chapter where it more logically belongs.
16-238-100 Grades and standards.	16-239-040 Grades and standards adopted by Washington state.	<ul style="list-style-type: none"> • Title rewritten for clarity. • Rewritten and reformatted for clarity. • Moved to beginning of chapter where it more logically belongs.
16-238-110 Scales.	16-239-050 Scale testing.	<ul style="list-style-type: none"> • Title rewritten for clarity. • Rewritten and reformatted for clarity. • Moved to beginning of chapter where it more logically belongs.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires that an agency must prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. The department has concluded that the proposed fee increases, which are based upon the OFM fiscal growth rate factors for fiscal years 2003 and 2004, do not impose a more

than minor cost on the regulated industry and, therefore, an SBEIS is not required.

RCW 34.05.328 does not apply to this rule adoption. The Washington State Department of Agriculture is not a named agency in RCW 34.05.328.

Hearing Location: Washington State Department of Agriculture, Natural Resources Building, Conference Room

205, 1111 Washington Street, Olympia, WA 98504-2560, on April 24, 2003, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Laurie Crose by April 23, 2003, TDD (360) 902-1976 or (360) 902-1996.

Submit Written Comments to: George Huffman, Hearing Officer, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2085, by April 24, 2003, 5:00 p.m.

Date of Intended Adoption: May 25, 2001 [2003].

March 18, 2003

Robert W. Gore
Assistant Director

Chapter 16-239 WAC

WSDA GRAIN INSPECTION PROGRAM—DEFINITIONS, STANDARDS, FEES AND CHARGES

NEW SECTION

WAC 16-239-010 Definitions. "Department" means the Washington state department of agriculture.

"Fee" means any charge made by the department for:

- (1) Inspecting and handling any commodity; or
- (2) Any service related to weighing or storing grains or commodities.

"GIPSA/FGIS" means the Grain Inspection, Packers and Stockyards Administration, Federal Grain Inspection Service.

"Official commercial inspection services" means a contractual agreement between the applicant and the department that includes, but is not limited to, the following:

- (1) An applicant developed list or narrative that includes the specific inspection services and service scope they are requesting;
- (2) An applicant developed timeline showing when specific inspection services must be performed by the department; and
- (3) The specific inspection space and equipment that the applicant will provide at their expense.

"Overtime" means:

- (1) Any time worked on Saturdays, Sundays, or holidays; and
- (2) All time worked before or after regularly scheduled working hours on Monday through Friday.

"Ton" means two thousand pounds avoirdupois.

"USDA" means the United States Department of Agriculture.

NEW SECTION

WAC 16-239-020 Washington state grain and commodity inspection points. The following cities are department-designated points for inspecting and weighing standardized grains, beans, peas, lentils and other commodities:

- Colfax
- Kalama
- Olympia

- Pasco
- Seattle
- Spokane
- Tacoma
- Vancouver.

NEW SECTION

WAC 16-239-030 Commodities covered by chapter 22.09 RCW. Commodities covered under chapter 22.09 RCW with respect to sampling, inspection, weighing, and quality or constituent determinations include all:

- (1) Grains with standards or inspection criteria established under the United States Grain Standards Act;
- (2) Commodities with standards or inspection criteria established under the Agricultural Marketing Act;
- (3) Commodities with standards or inspection criteria established under Washington state standards; and
- (4) By-products resulting from conditioning or processing the grains and commodities listed in this section.

NEW SECTION

WAC 16-239-040 Grades and standards adopted by Washington state. Washington state has adopted the following grades and standards:

(1) The grades and standards established by the United States Department of Agriculture from August 1, 1984, to the present that apply to all grains and commodities regulated by this chapter.

(2) The procedures to sample, grade, test and weigh grains and commodities, established by the regulations and instructions under the United States Grain Standards Act and the Agricultural Marketing Act of 1946.

NEW SECTION

WAC 16-239-050 Scale testing. The United States Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, Federal Grain Inspection Service (USDA, GIPSA/FGIS) has delegated official scale testing and scale authorization authority to the department. All scales in Washington state under USDA, GIPSA/FGIS jurisdiction must comply with the following testing requirements:

(1) Scales must be tested and certified for accuracy at least twice each year by an authorized Washington state department of agriculture scale expert or a USDA, GIPSA/FGIS scale specialist.

(2) When tested by the department or by USDA, GIPSA/FGIS, a seal must be placed on the scales. This seal must be dated and must indicate approval or rejection.

(3) When scales are tested, copies of the test report must be:

- (a) Forwarded to the USDA, GIPSA/FGIS;
- (b) Maintained by the department; and
- (c) Maintained at the facility where the scale is located.

NEW SECTION

WAC 16-239-060 Guarantee of expenses. When service is requested that requires assigning personnel to a facility where the volume of work at the established fee will not cover the cost of providing the service, a guarantee of expenses is required.

NEW SECTION

WAC 16-239-061 Guaranteed staffing levels. If the department has an adequate number of trained personnel, an applicant for services may contract with the department for guaranteed staffing levels at negotiated minimum hours and unit fees.

NEW SECTION

WAC 16-239-062 Additional fees to cover insufficient revenue at export locations. (1) When the lot size or workload is of insufficient size to generate revenue equivalent to the per hour straight time fee per employee, an additional fee must be assessed.

(2) The purpose of the additional fee is to insure that the total revenue generated on a daily basis is equal to the per hour straight time fee per employee.

(3) Upon the applicant's written request, the additional fee may be established using the average hourly revenue generated at the worksite over the Monday through Sunday workweek (weekly averaging).

(4) Without a written request, the additional fee must be assessed on a daily basis.

Note: The weekly averaging computation uses the prior week's invoices for ship lots completed before the start of business on Monday. It does not include fees assessed for GIPSA/FGIS scale authorization, overtime, late notice, call-back, standby, shift request, or shift cancellation.

NEW SECTION

WAC 16-239-063 Official commercial inspection services. The department may provide on-site official commercial inspection services, at the applicant's request, when all of the following conditions are met:

(1) Appropriate space, equipment and security must be provided by the applicant.

(2) The applicant must provide a written document fully describing the services requested.

(3) The department must be able to provide appropriate licensed personnel to accomplish the service requested.

(4) A guarantee of expenses is negotiated.

Note: The applicant must fully describe the requested services in writing so the department can determine appropriate staffing levels and develop a guarantee of expenses proposal.

NEW SECTION

WAC 16-239-064 Calculating travel time, mileage and per diem. When department personnel perform services at locations other than department-designated grain and com-

modity inspection points, the applicant must pay the department:

(1) Travel time for each department employee from the established inspection point to the service location and return at the rates in effect at the time the service is performed.

(2) Mileage from the established inspection point to the service location and return for each vehicle involved. The mileage rate is assessed according to the state of Washington's general administration private vehicle mileage reimbursement rate in effect at the time the service is performed.

(3) If applicable, a per diem rate will be assessed for each department employee equal to the established state of Washington travel status per diem rates in effect at the time the service is performed.

NEW SECTION

WAC 16-239-065 Payment of fees and charges. (1) All department fees and charges for services rendered are due within thirty days of the statement date.

(2) If the department does not receive payment within thirty days:

(a) Services may be withheld until the delinquent account is paid; or

(b) Cash payment for subsequent services may be required.

(3) The department assesses a penalty of twelve percent per annum on all delinquent account balances.

NEW SECTION

WAC 16-239-070 Basic WSDA grain program fees for service. Basic WSDA grain program fees for service and related requirements are contained in WAC 16-239-071 through 16-239-079.

NEW SECTION

WAC 16-239-071 Straight time rate. (1) Except for a GIPSA/FGIS scale authorization service, the department's per employee straight time rate is:

	Rate Per Hour
Effective June 30, 2003	\$28.75
Effective July 1, 2003	\$29.50

(2) The straight time rate is assessed when:

(a) No other fee, guarantee of expenses or contractual agreement exists; or

(b) It is specified in the schedule of fees; or

(c) The fees generated through the service provided are not equivalent to the straight time rate, per hour, per employee (including applicable supervisory and clerical employee hours).

NEW SECTION

WAC 16-239-072 GIPSA/FGIS scale authorization fee. (1) The department's per employee GIPSA/FGIS scale authorization fee is:

PROPOSED

	Rate Per Hour
Effective June 30, 2003	\$38.08
Effective July 1, 2003	\$39.00

(2) The GIPSA/FGIS scale authorization fee, per hour, per employee is assessed when GIPSA/FGIS scale authorization services are requested or required.

(3) In addition to the hourly GIPSA/FGIS scale authorization fee; the department may assess travel time, mileage, per diem, overtime, late notice, call-back, standby and service cancellation fees.

NEW SECTION

WAC 16-239-073 Overtime and night shift rates. (1)

The department's per employee overtime and night shift rates are:

	Rate Per Hour
Effective June 30, 2003	\$7.48
Effective July 1, 2003	\$7.70

(2) In addition to regular inspection and weighing fees, the department will charge overtime and night shift rates per hour, per employee, including applicable supervisory and clerical employee hours, when a service is requested:

(a) Before or after regularly scheduled working hours, Monday through Friday; or

(b) During established meal periods on any shift; or

(c) Anytime on Saturdays, Sundays or holidays.

(3) When an applicant contracts for a permanent night shift, the overtime and night shift rates for the night shift will be waived after the initial seven-day notice period expires.

NEW SECTION

WAC 16-239-074 Late notice fee. (1) The department's per employee late notice fee is:

	Rate Per Hour
Effective June 30, 2003	\$4.98
Effective July 1, 2003	\$5.12

(2)(a) Requests for service on Saturdays, Sundays, or holidays, or for work before or after regularly scheduled working hours, Monday through Friday, must be received by the inspection office no later than 2:00 p.m. of the last regularly scheduled working day before the date of the requested service. For example, the inspection office must receive a request for Saturday service by 2:00 p.m. of the preceding Friday.

(b) When the service request is not received by 2:00 p.m., the department will provide services if qualified employees are available.

(3)(a) Service requests beyond the normal scope or volume requested at an inspection site must be received by the inspection office no later than 2:00 p.m. of the last regularly scheduled working day before the requested date of service.

(b) The department will provide the service if adequate numbers of qualified employees are available.

(4) The late notice fee will be assessed only for those hours of the service that the department is able to staff.

NEW SECTION

WAC 16-239-075 Call-back fee. (1) The department's call-back fee is:

	Fee Per Employee
Effective June 30, 2003	\$25.01
Effective July 1, 2003	\$25.80

(2) When the department receives requests for services after the close of business on a regular scheduled working day and sufficient numbers of qualified staff are available to provide the requested service, the department will assess a call-back fee for each employee scheduled for that shift or service request.

(3) The department will assess one call-back fee for each employee scheduled for a shift on a Saturday, Sunday, or holiday.

NEW SECTION

WAC 16-239-076 Shift request fee. (1) The department's per employee shift request fee is:

	Rate Per Hour
Effective June 30, 2003	\$7.48
Effective July 1, 2003	\$7.70

(2) Requests for establishing a night or graveyard shift must be given to the department in writing. The requested shift will begin seven days after the department receives the applicant's written request.

(3) If the night or graveyard shift begins before the seven-day notice period has expired, the department will assess a shift request fee for every hour an employee is assigned to the new shift(s) beginning with the day the employee is assigned until the seven-day notice expires.

(4) In addition to paying shift request fees for night or graveyard shifts, those locations where the department cannot maintain full-time staffing due to inadequate workloads or inconsistent work schedules are assessed shift request fees for day shifts.

(5)(a) At locations where department staffing has been reduced below the full-time permanent day shift numbers due to a lack of work, an applicant requesting a day shift that begins before the seven-day notice period has expired must pay a shift request fee for every hour that a department employee is assigned to the location.

(b) The assessment begins when the department employee is assigned and ends when the seven-day notice for the assigned employee expires.

PROPOSED

NEW SECTION

WAC 16-239-077 Shift cancellation fee. (1) The department's per employee shift cancellation fee is:

	Rate Per Hour
Effective June 30, 2003	\$7.48
Effective July 1, 2003	\$7.70

(2)(a) All requests to cancel a previously requested night or graveyard shift must be given to the department, in writing, at least twenty-one days before the cancellation date.

(b) If the applicant does not give the department the full twenty-one day notice, a shift cancellation fee will be assessed for all hours between the time the assigned staff would have worked and the time when the twenty-one day notice expires.

(3) Locations that are not routinely staffed due to inconsistent schedules or are inadequately staffed due to a lack of work, will be assessed the shift cancellation fee for all shifts where the full twenty-one day cancellation notice is not given.

NEW SECTION

WAC 16-239-078 Four-hour minimum standby fee.

(1) The department's per employee four-hour minimum standby fee is:

	Rate Per Employee Per Hour
Effective June 30, 2003	\$28.75
Effective July 1, 2003	\$29.50

(2) When a service is requested before or after the inspection office's established standard Monday through Friday workday or anytime on Saturdays, Sundays, or holidays and the service cannot be performed through no fault of the department, the per employee four-hour minimum standby fee will be assessed.

(3) The per employee four-hour minimum standby fee is assessed when service is requested at a location not routinely staffed on a Monday through Friday basis if the department is able to adequately staff qualified personnel to perform the service and, through no fault of the department, the service cannot be performed.

(4) When a requested service begins or ends within two hours of the regular starting or ending time of a shift and the service cannot be performed through no fault of the department, the per employee standby fee is assessed on a per hour basis.

(5) The per employee standby fee is assessed for all hours staffed at the request of the applicant over the four-hour minimum.

NEW SECTION

WAC 16-239-079 Service cancellation fee. (1) The department's per employee service cancellation fee is based upon a four-hour minimum at the straight time rate:

	Rate Per Employee Per Hour
Effective June 30, 2003	\$28.75
Effective July 1, 2003	\$29.50

(2) The department will assess a per employee service cancellation fee when service is requested:

(a) Before or after working hours, Monday through Friday, or anytime on a Saturday, Sunday or holiday, and a cancellation of the request is not received by 2:00 p.m. of the last regularly scheduled working day before the service is scheduled to begin; or

(b) At locations that are not routinely staffed on a Monday through Friday basis because of inconsistent schedules or are inadequately staffed due to a lack of work and a service cancellation request is not received at the inspection office by 2:00 p.m. of the last regularly scheduled working day before the requested service is scheduled to begin.

NEW SECTION

WAC 16-239-080 Fees for official sampling, inspecting, and/or weighing services under the United States Grain Standards Act. WAC 16-239-0801 through 16-239-0812 contain the specific WSDA fees for performing official sampling, inspecting, and/or weighing services under the United States Grain Standards Act.

NEW SECTION

WAC 16-239-0801 Fees for combination inspection and weighing services. Table 1 contains the fees for performing combination inspection and weighing services.

**Table 1
Fees for Combination Inspection and Weighing Services**

Inspection and Weighing Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Barges	\$0.132 per ton	\$0.136 per ton
Bin transfers	\$0.132 per ton	\$0.136 per ton
Vessels (export and domestic ocean-going)		
• First 3,000,000 short tons per fiscal year*	\$0.138 per ton	\$0.142 per ton
• From 3,000,001 to 5,000,000 short tons per fiscal year*	\$0.131 per ton	\$0.131 per ton

PROPOSED

Inspection and Weighing Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
• From 5,000,001 to 6,500,000 short tons per fiscal year*	\$0.128 per ton	\$0.128 per ton
• Over 6,500,000 short tons per fiscal year*	\$0.120 per ton	\$0.120 per ton
*Note: The tonnage assessment is applied in full lot increments and is reset at the beginning of each fiscal year. The fiscal year begins July 1 and ends the following June 30.		
Unit trains	\$0.132 per ton	\$0.136 per ton

NEW SECTION

WAC 16-239-0802 Fees for official sampling and inspecting without weighing and fees for official sampling only. Table 2 contains the fees for performing official sampling and inspecting services without weighing and the fees for performing only official sampling services.

**Table 2
Fees for Official Sampling and Inspecting Without Weighing and Fees for Official Sampling Only**

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Car lots sampled by USDA approved diverter-type mechanical samplers, including per car for each car lot incorporated into a batch grade	\$16.52 per car	\$17.00 per car
Car lots, sampled by USDA approved grain trier, original inspections, subsequent original inspections, and new sample reinspections	\$25.82 per car	\$26.50 per car

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Truck lots, sampled by approved grain trier, original or new sample reinspections	\$16.31 per truck	\$16.75 per truck
Reinspections based on official file sample, except Canola*	\$9.81 per sample	\$10.00 per sample
Reinspections, Canola	\$28.75 per hour	\$29.50 per hour
*Note: Fees for laboratory determination of erucic acid, and/or glucosinolate, and/or oil content of Canola are equivalent to the USDA published fees.		
Bagged grains*	\$0.069 per hundredweight (cwt)	\$0.071 per hundredweight (cwt)
*Note: Factor-only reinspections available at the established reinspection fee, contingent on GIPSA/FGIS approval of the factor-only reinspection service option.		

NEW SECTION

WAC 16-239-0803 Fees for official Class X weighing services without an inspection. Table 3 contains the fees for performing official Class X weighing services without an inspection.

**Table 3
Fees for Official Class X Weighing Services Without an Inspection**

Weighing Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Cars, barges, or vessels	\$0.115 per ton	\$0.118 per ton
Bin transfers	\$0.115 per ton	\$0.118 per ton
Trucks, including sea van type containers	\$8.18 per weight lot	\$8.44 per weight lot

NEW SECTION

WAC 16-239-0804 Fees for other official weighing services. Table 4 contains the fees for performing other official weighing services.

PROPOSED

Table 4
Fees for Other Official Weighing Services

Weighing Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Class Y weighing services	\$28.75 per hour, per employee	\$29.50 per hour, per employee
Check weighing of bagged grain	\$28.75 per hour, per employee	\$29.50 per hour, per employee

NEW SECTION

WAC 16-239-0805 Fees for inspecting submitted samples. Table 5 contains the fees for performing inspections of submitted samples.

Table 5
Fees for Inspecting Submitted Samples

Inspection Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Analysis under the United States Grain Standards Act, except Canola*	\$8.26 per inspection	\$8.50 per inspection
*Note: Submitted sample certificates of grade for barley may show, on request, dockage to the nearest one-tenth percent without additional charge.		
Reinspections based on official file sample, except Canola	\$9.81 per sample	\$10.00 per sample
Canola*	\$15.49 per inspection	\$15.75 per inspection
Reinspections, Canola	\$28.75 per hour	\$29.50 per hour
*Note: Fees for laboratory determination of erucic acid, and/or glucosinolate, and/or oil content of Canola are equivalent to the USDA published fees.		
Note: When submitted samples are not of sufficient size to allow for official grade analysis, obtainable factors may be provided, upon request of the applicant, at the factor-only rate shown in Table 6 of WAC 16-239-0806.		

NEW SECTION

WAC 16-239-0806 Fees for factor analysis. Table 6 contains the fees for performing factor analysis services.

Table 6
Fees for Factor Analysis Services

Factor Analysis Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Nongrade determining factors, requested by applicant, in addition to the original inspection or ship-loading sublot analysis	\$2.68 per factor	\$2.75 per factor
Grade determining factor-only analysis, except Waxy Corn analysis	\$2.68 per factor	\$2.75 per factor
Waxy Corn analysis	\$13.84 per analysis	\$14.25 per analysis
Note: Applicants requesting four or more USGSA grade determining factors on a submitted sample will be assessed the submitted sample rate shown in WAC 16-239-0805.		

NEW SECTION

WAC 16-239-0807 Fees for official constituent analysis using near-infrared transmittance (NIRT) technology. Table 7 contains the fees for performing official constituent analysis using near-infrared transmittance (NIRT) technology.

Table 7
Fees for Official Constituent Analysis using Near-Infrared Transmittance (NIRT) Technology

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
In conjunction with official inspection for grade	\$6.71 per test	\$6.90 per test
Not in conjunction with official inspection for grade	\$9.08 per test	\$9.25 per test

PROPOSED

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Reinspection based on official file sample*	\$9.08 per test	\$9.25 per test
*Note: When a reinspection service includes a request for a new sample, the appropriate sampling fee in WAC 16-239-0802, Table 2, will be assessed in addition to the reinspection fee cited in Table 7.		

NEW SECTION

WAC 16-239-0808 Fees for qualitative or quantitative testing for the presence of Mycotoxins using USDA approved "ELISA," "Fluorometric," or similar methods. Table 8 contains the fees for performing qualitative or quantitative testing for the presence of Mycotoxins using USDA approved "ELISA" or "Fluorometric" methods.

Table 8

Fees for Qualitative or Quantitative Testing for the Presence of Mycotoxins Using USDA Approved "ELISA" or "Fluorometric" Methods

Testing Service Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Official sample or new sample reinspection, including official sampling	\$37.50 per test	\$37.50 per test
Submitted samples and reinspections based on official file sample	\$28.75 per test	\$29.50 per test
Note: Mycotoxin testing services using thin layer chromatography or equivalent USDA approved technology are available at the USDA published rate.		

NEW SECTION

WAC 16-239-0809 Fees for stowage examination services on vessels or ocean-going barges. Table 9 contains the fees for performing stowage examination services on vessels or ocean-going barges.

Table 9
Fees for Stowage Examination Services on Vessels or Ocean-Going Barges

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Initial inspection, five hold/stowage space/tank maximum	\$130.66 minimum fee	\$134.50 minimum fee
Initial inspection, above five hold/stowage space/tank maximum	\$26.13 per hold/stowage space/tank	\$26.90 per hold/stowage space/tank
Return to hold/stowage space/tank during inspection service	\$26.13 per hold/stowage space/tank	\$26.90 per hold/stowage space/tank
Subsequent inspections, three hold/stowage space/tank maximum	\$78.39 minimum fee	\$80.70 minimum fee
Subsequent inspection, above three hold/stowage space/tank maximum	\$24.78 per hold/stowage space/tank	\$25.57 per hold/stowage space/tank
Travel time, mid-stream or at a non-grain loading berth, two-hour minimum per inspection request	\$28.75 per hour, per employee	\$29.50 per hour, per employee
Stowage examination services requested on a Saturday, Sunday, or holiday, four-hour minimum	\$28.75 per hour, per employee	\$29.50 per hour, per employee
Note: At anchor stowage examination services will be conducted at the convenience of the designated grain inspection office during daylight hours under safe working and weather conditions. The applicant is responsible for securing licensed tug or water taxi to provide safe transportation to and from the anchor point. Two vessel or ship's agent representatives will accompany each WSDA inspector performing stowage examination services. Appropriate fees contained in WAC 16-239-071 through 16-239-079 may be assessed in addition to the appropriate fees in Table 9.		

PROPOSED

NEW SECTION

WAC 16-239-0810 Fees for other stowage examination services. Table 10 contains the fees for performing other stowage examination services.

**Table 10
Fees for Other Stowage Examination Services**

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Sea van containers, when not in conjunction with check loading service	\$8.77 per inspection	\$9.00 per inspection
Railcars, trucks, or other containers, not in conjunction with loading	\$8.77 per inspection	\$9.00 per inspection
Note: Fees for stowage examination services will not be assessed when official sampling and inspection, or official weighing occurs at the time of loading, unless the applicant requests an official stowage examination certificate. The stowage examination requirement associated with service at the time of loading may be waived in accordance with GIPSA/FGIS Directive 9020.1.		

NEW SECTION

WAC 16-239-0811 Fees for phytosanitary certification. Table 11 contains the fees for providing phytosanitary certification.

**Table 11
Fees for Phytosanitary Certification**

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
In conjunction with official inspection*	\$7.36 per certificate	\$7.50 per certificate
*Note: Hourly fees may be assessed for research necessary to produce the requested certificate.		
When not in conjunction with official inspection, add required sampling time	\$28.75 per hour, per employee	\$29.50 per hour, per employee

NEW SECTION

WAC 16-239-0812 Fees for miscellaneous services. Table 12 contains the fees for performing miscellaneous services.

**Table 12
Fees for Miscellaneous Services**

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Ship composite samples	Initial set of three provided without cost to the applicant	Initial set of three provided without cost to the applicant
Ship composite samples, in excess of the initial three, when requested in advance	\$5.68 per sample	\$5.75 per sample
Divided original certificates or letterhead statements	\$1.63 per certificate or letterhead statement	\$1.68 per certificate or letterhead statement
Extra copies of certificates or letterhead statements	\$3.26 per certificate or letterhead statement	\$3.36 per certificate or letterhead statement
Facsimile transmissions	\$1.07 per page	\$1.10 per page
Mailing of samples	At cost	At cost
Sample pickup fee, on department established routes	\$0.64 per sample	\$0.66 per sample

NEW SECTION

WAC 16-239-0813 Fees for other services under the United States Grain Standards Act. (1) Fees for other services under the United States Grain Standards Act not contained in WAC 16-239-0801 through 16-239-0812 are contained in WAC 16-239-071 through 16-239-079 and/or at the published rates of the laboratory or organization providing the official service or analysis.

(2) An applicant may be required to provide the necessary supplies and/or equipment when requesting a new or special type of analysis.

NEW SECTION

WAC 16-239-090 Fees for performing official Agricultural Marketing Act of 1946 services. WAC 16-239-0901 through 16-239-0911 contains the specific WSDA fees

PROPOSED

for performing official Agricultural Marketing Act of 1946 services.

NEW SECTION

WAC 16-239-0901 Fees for combination inspection and weighing services. Table 13 contains the fees for performing combination inspection and weighing services.

Table 13

Fees for Combination Inspection and Weighing Services

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Bulk commodities under federal or state standards	\$0.138 per ton	\$0.142 per ton
Bulk commodities, under federal, state or applicant defined factor analysis	\$0.138 per ton	\$0.142 per ton
Sample and weigh grain by-products into thirty ton maximum containers, including stowage examination	\$16.31	\$16.80

NEW SECTION

WAC 16-239-0902 Fees for official sampling and inspecting without weighing and fees for official sampling only. Table 14 contains the fees for performing official sampling and inspecting services without weighing and the fees for performing only official sampling services.

Table 14

Fees for Official Sampling and Inspecting Without Weighing and Fees for Official Sampling Only

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Car lots sampled by USDA approved diverter-type mechanical samplers*	\$16.52 per car	\$17.00 per car
Car lots, sampled by USDA approved grain trier	\$25.82 per car	\$26.50 per car

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Truck lots or container lots, sampled by USDA approved grain trier	\$16.31 per truck or container lot	\$16.75 per truck or container lot
Inspection of bagged commodities*	\$0.069 per hundredweight (cwt)	\$0.071 per hundredweight (cwt)

*Note: A minimum fee equivalent to the hourly fee cited in WAC 16-239-071 is assessed for bagged and bulk commodity sampling and inspection, or sampling only services.

NEW SECTION

WAC 16-239-0903 Fees for official weighing services without inspections. Table 15 contains the fees for performing official weighing services without inspections.

Table 15

Fees for Official Weighing Services without Inspections

Weighing Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
From elevator to conveyance, except trucks	\$0.115 per ton	\$0.118 per ton
From conveyance to elevator, except trucks	\$0.115 per ton	\$0.118 per ton
Bin transfers	\$0.115 per ton	\$0.118 per ton
Trucks	\$8.18 per weight lot	\$8.44 per weight lot

NEW SECTION

WAC 16-239-0904 Fees for other official weighing services. Table 16 contains the fees for performing other official weighing services.

Table 16

Fees for Other Official Weighing Services

Weighing Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Check weighing of bagged commodities	\$28.75 per hour, per employee	\$29.50 per hour, per employee

PROPOSED

NEW SECTION

WAC 16-239-0905 Fees for inspection of submitted samples. Table 17 contains the fees for inspecting submitted samples.

**Table 17
Fees for Inspecting Submitted Samples**

Inspection Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Standardized commodities, thresher run or processed	\$15.49 per sample	\$15.75 per sample
Commodities inspected under GIPSA/FGIS factor-only inspection procedures	\$15.49 per sample	\$15.75 per sample

Note: Fees for laboratory determinations of commodity constituents are assessed at the USDA published rate or at cost from the service provider.

NEW SECTION

WAC 16-239-0906 Fees for factor analysis. Table 18 contains the fees for performing factor analysis services.

**Table 18
Fees for Factor Analysis Services**

Factor Analysis Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Nongrade determining factors requested by applicant, in addition to the original inspection results, except moisture	\$2.68 per factor	\$2.75 per factor
Moisture only	\$5.68 per determination	\$5.75 per determination
Nongrade determining factors requested in ship loading subplot analysis	\$2.68 per factor	\$2.75 per factor
Factor-only determinations	\$3.26 first two factors	\$3.36 first two factors

Factor Analysis Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Note: Additional factors are available at a fee of \$2.68 per factor effective June 30, 2003, and \$2.75 per factor effective July 1, 2003. Applicants requesting more than five factors will pay the appropriate submitted sample fee in WAC 16-239-0905 for the requested factors. When the size of a submitted sample is insufficient to perform official grade analysis, factor-only analysis is available but must be requested by the applicant.		

NEW SECTION

WAC 16-239-0907 Fees for qualitative or quantitative testing for the presence of Mycotoxins using USDA approved "ELISA" or "Fluorometric" methods. Table 19 contains the fees for performing qualitative or quantitative testing for the presence of Mycotoxins using USDA approved "ELISA" or "Fluorometric" methods.

**Table 19
Fees for Qualitative or Quantitative Testing for the Presence of Mycotoxins Using USDA Approved "ELISA" or "Fluorometric" Methods**

Testing Service Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Official samples and new sample reinspections, including official sampling	\$37.50 per test	\$37.50 per test
Submitted samples and reinspections based on official file sample	\$28.75 per test	\$29.50 per test

Note: Mycotoxin testing services using thin layer chromatography or equivalent USDA approved technology are available at the USDA published rate.

NEW SECTION

WAC 16-239-0908 Fees for stowage examination services on vessels or ocean-going barges. Table 20 contains the fees for performing stowage examination services on vessels or ocean-going barges.

PROPOSED

Table 20
Fees for Stowage Examination Services on Vessels or Ocean-Going Barges

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Initial inspection, five hold/stowage space/tank maximum	\$130.66 minimum fee	\$134.50 minimum fee
Initial inspection, above five hold/stowage space/tank maximum	\$26.13 per hold/stowage space/tank	\$26.90 per hold/stowage space/tank
Return to hold/stowage space/tank during inspection service	\$26.13 per hold/stowage space/tank	\$26.90 per hold/stowage space/tank
Subsequent inspections, three hold/stowage space/tank maximum	\$78.39 minimum fee	\$80.70 minimum fee
Subsequent inspection, above three hold/stowage space/tank maximum	\$24.78 per hold/stowage space/tank	\$25.57 per hold/stowage space/tank
Travel time, mid-stream or at a non-grain loading berth, two-hour minimum per inspection request	\$28.75 per hour, per employee	\$29.50 per hour, per employee
Stowage examination services requested on a Saturday, Sunday, or holiday, four-hour minimum	\$28.75 per hour, per employee	\$29.50 per hour, per employee

Note: At anchor stowage examination services will be conducted at the convenience of the designated grain inspection office during daylight hours under safe working and weather conditions. The applicant is responsible for securing licensed tug or water taxi to provide safe transportation to and from the anchor point. Two vessel or ship's agent representatives will accompany each WSDA inspector performing stowage examination services. Appropriate fees contained in WAC 16-239-071 through 16-239-079 may be assessed in addition to the appropriate fees in Table 20.

NEW SECTION

WAC 16-239-0909 Fees for other stowage examination services. Table 21 contains the fees for performing other stowage examination services.

Table 21
Fees for Other Stowage Examination Services

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Sea van containers, when not in conjunction with check loading service	\$8.77 per inspection	\$9.00 per inspection
Railcars, trucks, or other containers	\$8.77 per inspection	\$9.00 per inspection

NEW SECTION

WAC 16-239-0910 Fees for phytosanitary certification. Table 22 contains the fees for providing phytosanitary certification.

Table 22
Fees for Phytosanitary Certification

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
In conjunction with official inspection*	\$7.36 per certificate	\$7.50 per certificate
*Note: Hourly fees may be assessed for research necessary to produce the requested certificate.		
When not in conjunction with official inspection, add required sampling time	\$28.75 per hour, per employee	\$29.50 per hour, per employee

NEW SECTION

WAC 16-239-0911 Fees for miscellaneous services. Table 23 contains the fees for performing miscellaneous services.

PROPOSED

Table 23
Fees for Miscellaneous Services

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Falling numbers determinations	\$13.84 per determination	\$14.25 per determination
Liquefaction number	\$0.53 per determination	\$0.54 per determination
Divided original certificates or letterhead statements	\$1.63 per certificate or letterhead statement	\$1.68 per certificate or letterhead statement
Extra copies of certificates or letterhead statements	\$3.26 per certificate or letterhead statement	\$3.36 per certificate or letterhead statement
Sanitation inspections at commodity processing sites, initial inspection	No charge	No charge
Sanitation inspections, return to failed facility, four-hour minimum	\$28.75 per hour, per employee	\$29.50 per hour, per employee
Sampling of processed commodities, two-hour minimum	\$28.75 per hour, per employee	\$29.50 per hour, per employee
Note: Laboratory fees associated with processed commodity lots will be assessed per the GIPSA/FGIS rates. Postage and other costs for sample delivery to the appropriate analyzing laboratory will be assessed to the applicant for service.		
Facsimile transmissions	\$1.07 per page	\$1.10 per page
Mailing of samples	At cost	At cost
Sample pickup fee, on department established routes	\$0.64 per sample	\$0.66 per sample

NEW SECTION

WAC 16-239-0912 Fees for other services under the Agricultural Marketing Act of 1946. (1) Fees for other services under the Agricultural Marketing Act of 1946 not contained in WAC 16-239-0901 through 16-239-0911 are contained in WAC 16-239-071 through 16-239-079 and/or at the

published rates of the laboratory or organization providing the official service or analysis.

(2) An applicant may have to provide the necessary supplies and/or equipment when requesting a new or special type of analysis.

NEW SECTION

WAC 16-239-100 Fees for services performed under state regulation or standards and for services "as specified" by the applicant when no official standards exist. Department fees for services performed under state regulation or standards and for services "as specified" by the applicant when no official standards exist are contained in WAC 16-239-1010 through 16-239-1030.

NEW SECTION

WAC 16-239-1010 Fees for inspecting miscellaneous agricultural commodities under chapter 16-213 WAC. Table 24 contains the fees for inspecting miscellaneous agricultural commodities under chapter 16-213 WAC.

Table 24
Fees for Inspecting Miscellaneous Agricultural Commodities under Chapter 16-213 WAC

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Submitted sample inspection, cultivated buckwheat, Washington state grade or for factor-only analysis	\$8.18 per sample	\$8.44 per sample
Bulk car lots, cultivated buckwheat, sampled by USDA approved diverter-type mechanical samplers	\$16.52 per car	\$17.00 per car
Bulk car lots, cultivated buckwheat, sampled by USDA approved grain trier	\$25.82 per car	\$26.50 per car

PROPOSED

Services Provided	Fees for Services Provided Effective June 30, 2003	Fees for Services Provided Effective July 1, 2003
Bulk truck lots or container lots, cultivated buckwheat, sampled by USDA approved grain trier	\$16.31 per truck or container lot	\$16.75 per truck or container lot
Cracked corn, corn screenings, and mixed grain screenings sampling, inspection and weighing services	At applicable fees contained in WAC 16-239-0801 through 16-239-0812	At applicable fees contained in WAC 16-239-0801 through 16-239-0812
Bagged commodities	\$0.069 per hundredweight (cwt)	\$0.071 per hundredweight (cwt)

NEW SECTION

WAC 16-239-1030 Fees for services not specifically identified in WAC 16-239-1010 and 16-239-1020. (1) Services not specifically identified in WAC 16-239-1010 and 16-239-1020 may be provided under the appropriate fees in WAC 16-239-071 through 16-239-079 and/or at the published rates of the laboratory or organization providing the service or analysis.

(2) An applicant may have to provide the necessary supplies and/or equipment when requesting a new or special type of analysis.

PROPOSED

WSR 03-07-088
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Aging and Disability Services Administration)
 [Filed March 19, 2003, 7:55 a.m.]

NEW SECTION

WAC 16-239-1020 Fees for miscellaneous services. Table 25 contains the fees for performing miscellaneous services.

Table 25
Fees for Miscellaneous Services

Services Provided	Fees for Services Provided
Unofficial constituent analysis using near-infrared transmittance (NIRT) technology	Available at the rates in WAC 16-239-0807, Table 7
The following may be available as unofficial services:	If available, these services will be provided under the appropriate rates in WAC 16-239-071 through 16-239-079 and/or at the published rates of the laboratory or organization providing the service or analysis.
<ul style="list-style-type: none"> • Laboratory analysis of commodities covered in WAC 16-239-1010; or • Analysis of constituents or conditions of grains or commodities not provided for in the official standards or specifically addressed in WAC 16-239-0801 through 16-239-0812 or WAC 16-239-0901 through 16-239-0911 	

Continuance of WSR 03-03-018.

Preproposal statement of inquiry was filed as WSR 00-15-014.

Title of Rule: Adoption of new WAC 388-78A-0010 through 388-78A-1230, boarding home licensing rules; and repeal of WAC 388-78A-010 through 388-78A-990.

Purpose: DSHS is extending the deadline for written comments on these proposed rules to 5:00 p.m., April 30, 2003. Proposed rules were originally filed as WSR 03-03-018 and a public hearing was held on March 11, 2003. This notice also extends the earliest date that the department may adopt the proposed rules as permanent until May 15, 2003.

Written comments will be accepted if received at the fax number or e-mail address below by the deadline noted, of if postmarked no later than April 30, 2003. The department will respond in writing to all comments received on these proposed rules. To receive a copy of this written response, contact Denny McKee, Program Manager, at the DSHS Aging and Disability Services Administration, P.O. Box 45600, Olympia, WA 98504-5600, by calling (360) 725-2590, or by e-mail at mckeedd@dshs.wa.gov.

Assistance for Persons with Disabilities: Contact by phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Andy Fernando, Rules Coordinator, DSHS 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., April 30, 2003.

Date of Intended Adoption: Not earlier than May 15, 2003.

March 17, 2003
 Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

WSR 03-07-089

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed March 19, 2003, 8:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-03-120.

Title of Rule: WAC 16-333-010 Definitions, 16-333-040 Caneberry certification fees effective June 30, 2001, and 16-333-041 Caneberry certification fees effective July 1, 2001.

Purpose: This proposal increase caneberry certification fees within the fiscal growth factors for both fiscal year 2003 (3.29%) and fiscal year 2004 (3.2%) in WAC 16-333-041. In addition, it repeals WAC 16-333-040 because it sets forth a fee schedule that was only in effect for one day (June 30, 2001) and was superceded on July 1, 2001, by the current fee schedule. Finally, it rewrites WAC 16-333-010 and 16-333-041 to improve clarity as required by Executive Order 97-02.

Statutory Authority for Adoption: Chapters 15.14 and 34.05 RCW.

Statute Being Implemented: Chapter 15.14 RCW.

Summary: The proposed amendments increase application and hourly inspection fees within the fiscal growth factors for fiscal year 2003 and fiscal year 2004. The increase will occur in two stages, with one increase of a maximum of 3.29% effective until June 30, 2003 and the second increase of a maximum of 3.2% effective July 1, 2003.

Reasons Supporting Proposal: Current fee levels are not adequate to cover the costs of caneberry plant certification. The Nursery Advisory Committee, which is appointed by the director of the Department of Agriculture to advise the department on nursery related issues, supports the proposal to raise fees within the fiscal growth factors for fiscal year 2003 and fiscal year 2004.

Name of Agency Personnel Responsible for Drafting: Mary Toohey, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1907; Implementation and Enforcement: Tom Wessels, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1984.

Name of Proponent: Washington State Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Currently, five nurseries participate in the caneberry planting stock certification program which is created by these rules. Participation in the production of certified planting stock is entirely voluntary for any producer of caneberry plants. Enrollment and compliance with the requirements of this fee-for-service program are intended to produce a known, high quality agricultural product apparently free of specified diseases and other pests, that normally commands a market premium.

Proposal Changes the Following Existing Rules: This rule establishes the fee schedule for caneberry plant certification. Proposed changes will increase both application and hourly fees by a maximum of the fiscal growth factor for fiscal year 2003, effective until June 30, 2003, and another

increase in fees by a maximum of the fiscal growth factor for fiscal year 2004, effective July 1, 2003. It also rewrites sections of the rule to improve clarity as required by Executive Order 97-02.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires that an agency must prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. Analysis of the economic effects of the proposed rule amendments demonstrate that the changes will not be more than a minor cost on the regulated industry and, therefore, an SBEIS is not required.

RCW 34.05.328 does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

Hearing Location: Washington State Department of Agriculture, 1111 Washington Street S.E., Natural Resources Building, 2nd Floor, Conference Room 205, Olympia, WA 98504-2560, on April 22, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Henri Gonzales by April 8, 2003, TDD (360) 902-1996.

Submit Written Comments to: Henri Gonzales, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2094, e-mail hgonzales@agr.wa.gov, by April 22, 2003.

Date of Intended Adoption: May 6, 2003.

March 19, 2003

Mary A. Martin Toohey

Assistant Director

AMENDATORY SECTION (Amending WSR 00-19-035, filed 9/12/00, effective 10/13/00)

WAC 16-333-010 Definitions. (((+))) "Caneberry" means any cultivated *Rubus* species.

(((2))) "Department" means the department of agriculture of the state of Washington.

(((3))) "Director" means the director of the department of agriculture or a duly appointed representative.

(((4))) "Index" means to test for virus infection by means of inoculation from the plant to be tested to an indicator plant, or by any other method approved by the department.

(((5))) "Indicator plant" means any herbaceous or woody plant used to index or test for virus infection.

(((6))) "Nuclear stock" means caneberry plants that have been indexed and found free of known viruses and virus-like diseases by United States Department of Agriculture personnel or other personnel acceptable to the department. Nuclear plants must be reindexed for virus and virus-like diseases at least every three years and maintained under conditions that would ensure freedom from infection.

(((7))) "Off-type" means appearing by visual examination to be different from the species or variety listed on the application or exhibiting symptoms of a genetic or nontransmissible disorder.

(((8))) "Root cuttings" means sections of roots which have one or more bud.

~~((9))~~ "Succulent plants" means small, actively growing plants that are developing from root buds, not having passed through a dormant period.

~~((10))~~ "Tolerance" means the maximum acceptable percentage of planting stock that is diseased, infected by plant pests, defective, or off-type based on visual inspection or laboratory testing by the director or other authorized person.

~~((11))~~ "Virus-like" means a graft-transmissible disorder resembling a virus disease, including, but not limited to, diseases caused by viroids and phytoplasmas.

AMENDATORY SECTION (Amending WSR 01-11-030, filed 5/8/01, effective 6/8/01)

WAC 16-333-041 Caneberry certification fees ~~((effective July 1, 2001))~~. The caneberry certification fees are as follows:

	<u>Effective until June 30, 2003</u>	<u>Effective July 1, 2003</u>
<u>Application fee</u>	<u>\$136.34</u>	<u>\$140.70</u>
<u>Hourly inspection rate</u>	<u>\$27.26</u>	<u>\$28.10</u>

(1) ~~((Caneberry))~~ Certification application fee. The applicant must furnish all information requested on the application form furnished by the department, including, but not limited to, the crop, variety, class planted, date planted, source of seed or plants, acreage, field number, applicant's name and address, applicant's signature, and date of application. The applicant must allow the department to take plants or plant parts from any planting for inspection and testing purposes. A separate application is required for each cultivar and/or lot entered for certification. Applications must be filed with the Plant Services Program, P.O. Box 42560, Olympia, Washington 98504-2560 by May 15 each year and be accompanied by ~~((a \$132.00))~~ the application fee.

(2) Inspection fees. ~~((The inspection fee is \$26.40 per hour))~~ The department will conduct certification inspections at the hourly inspection rate plus mileage charged at a rate established by the state office of financial management. Testing fees will be charged at the rate established in chapter 16-470 WAC. Inspection and testing fees are payable upon completion of work. Billing may be arranged subject to department policies and processes.

(3) The department will remove any applicant from the certification program for failing to pay fees when due.

(4) The department will not accept applications from growers owing the department for previous fees.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-333-040 Caneberry certification fees effective June 30, 2001.

WSR 03-07-090
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed March 19, 2003, 8:39 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-03-121.

Title of Rule: WAC 16-328-008 Definitions, 16-328-010 Strawberry plant certification fees, and 16-328-011 Strawberry plant certification fees.

Purpose: This proposal increases strawberry plant certification fees within the fiscal growth factors for both fiscal year 2003 (3.29%) and fiscal year 2004 (3.2%) in WAC 16-328-011. In addition, it repeals WAC 16-328-010 because it sets forth a fee schedule that was only in effect for one day (June 30, 2001) and was superceded on July 1, 2001, by the current fee schedule. Finally, it rewrites WAC 16-328-008 and 16-328-011 to improve clarity as required by Executive Order 97-02.

Statutory Authority for Adoption: Chapters 15.14 and 34.05 RCW.

Statute Being Implemented: Chapter 15.14 RCW.

Summary: The proposed amendments increase application and hourly inspection fees within the fiscal growth factors for fiscal year 2003 and fiscal year 2004. The increase will occur in two stages, with one increase of a maximum of 3.29% effective until June 30, 2003 and the second increase of a maximum of 3.2% effective July 1, 2003.

Reasons Supporting Proposal: Current fee levels are not adequate to cover the costs of strawberry plant certification. The Nursery Advisory Committee, which is appointed by the director of the Department of Agriculture to advise the department on nursery related issues, supports the proposal to raise fees within the fiscal growth factors for fiscal year 2003 and fiscal year 2004.

Name of Agency Personnel Responsible for Drafting: Mary Toohey, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1907; Implementation and Enforcement: Tom Wessels, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1984.

Name of Proponent: Washington State Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Currently, there is only one nursery that participates in the strawberry planting stock certification program, which is created by these rules. Participation in the production of certified planting stock is entirely voluntary for any producer of strawberry plants. Enrollment and compliance with the requirements of this fee-for-service program are intended to produce a known, high quality agricultural product apparently free of specified diseases and other pests, that normally commands a market premium.

Proposal Changes the Following Existing Rules: This rule establishes the fee schedule for strawberry plant certification. Proposed changes will increase both application and hourly fees by a maximum of the fiscal growth factor for fiscal year 2003, effective until June 30, 2003, and another

PROPOSED

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increase in fees by a maximum of the fiscal growth factor for fiscal year 2004, effective July 1, 2003. It also rewrites sections of the rule to improve clarity as required by Executive Order 97-02.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires that an agency must prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. Analysis of the economic effects of the proposed rule amendments demonstrate that the changes will not be more than a minor cost on the regulated industry and, therefore, an SBEIS is not required.

RCW 34.05.328 does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

Hearing Location: Washington State Department of Agriculture, 1111 Washington Street S.E., Natural Resources Building, 2nd Floor, Conference Room 205, Olympia, WA 98504-2560, on April 22, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Henri Gonzales by April 8, 2003, TDD (360) 902-1996.

Submit Written Comments to: Henri Gonzales, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2094, e-mail hgonzales@agr.wa.gov, by April 22, 2003.

Date of Intended Adoption: May 6, 2003.

March 19, 2003

Mary A. Martin Toohey
Assistant Director

AMENDATORY SECTION (Amending WSR 00-19-034, filed 9/12/00, effective 10/13/00)

WAC 16-328-008 Definitions. ~~((+))~~ "Department" means the department of agriculture of the state of Washington.

~~((2))~~ "Director" means the director of the department of agriculture or a duly appointed representative.

~~((3))~~ "Fairly clean" means that the roots are not matted or caked with dirt.

~~((4))~~ "Fairly fresh" means that the roots and petioles are not excessively wilted or otherwise damaged.

~~((5))~~ "Fairly well trimmed runners and petioles" means that the length of each runner and petiole is three inches or less.

~~((6))~~ "Firm" means that the crowns are not soft or spongy, although they may yield to slight pressure.

~~((7))~~ Free from damage by:

(a) "Sunburn" means that the roots are not damaged by sunburn or scald, but slight discoloration may be present.

(b) "Mold" means that the plants are free from excessive mold or decay. Plants slightly affected by mold may be allowed.

(c) "Freezing injury" means that the roots are of a normal color, and the plant is only moderately affected by discolored roots which may affect its normal growth. Black roots caused by disease are not permitted.

(d) "Broken or split crowns, mechanical injury" means there is no breaking or severance of the crown from the root section, or splitting of the crown, or other mechanical injury that would affect the normal growth of the plant.

~~((8))~~ "Index" means to test for virus infection by means of inoculation from the plant to be tested to an indicator plant, or by any other method accepted by the department.

~~((9))~~ "Indicator plant" means any herbaceous or woody plant used to index or test for virus infection.

~~((10))~~ "Moist" means that the plants are reasonably turgid and not dried to a degree ~~((than))~~ that would affect normal growth.

~~((11))~~ "Nuclear stock" means strawberry plants that have been indexed and found free of known viruses and virus-like diseases by United States Department of Agriculture personnel or other personnel acceptable to the department. Nuclear plants must be reindexed for virus and virus-like diseases at least every three years and maintained under conditions that would ensure freedom from infection.

~~((12))~~ "Off-type" means appearing by visual examination to be different from the species or variety listed on the application or exhibiting symptoms of a genetic or nontransmissible disorder.

~~((13))~~ "Similar varietal characteristics" means that the plants have the same general character of growth.

~~((14))~~ "Tolerance" means the maximum acceptable percentage of planting stock that is diseased, infected by plant pests, defective, or off-type based on visual inspection or laboratory testing by the director or other authorized person.

~~((15))~~ "Virus-like" means a graft-transmissible disorder resembling a virus disease, including, but not limited to, diseases caused by viroids and phytoplasmas.

AMENDATORY SECTION (Amending WSR 01-11-032, filed 5/8/01, effective 6/8/01)

WAC 16-328-011 Strawberry plant certification fees. ~~((Effective July 1, 2001,))~~ The strawberry plant certification fees are as follows:

	Effective until June 30, 2003	Effective July 1, 2003
<u>Application fee</u>	\$136.34	\$140.70
<u>Hourly inspection rate</u>	\$27.26	\$28.10

(1) Certification application fee. The applicant must furnish all information requested on the application for inspection, including, but not limited to, the crop, variety, class planted, date planted, source of seed or plants, acreage, field number, applicant's name and address, applicant's signature, and date of application. The applicant must allow the department to take plants or plant parts from any planting for inspection or testing purposes. A separate application is required for each cultivar and/or lot entered for certification. Applications for inspection must be filed with the Plant Services Program, P.O. Box 42560, Olympia, Washington, 98504-2560 by June 15 of each year and be accompanied by ~~((a \$132.00))~~ the application fee.

(2) Inspection fees. ((The inspection fee is \$26.40 per hour)) The department will conduct certification inspections at the hourly inspection rate plus mileage charged at a rate established by the state office of financial management. Testing fees will be charged at the rate established in chapter 16-470 WAC. Inspection and testing fees are payable upon completion of work. Billing may be arranged subject to department policies and processes.

(3) The department will remove any applicant from the certification program for failing to pay fees when due.

(4) The department will not accept applications from growers owing the department for previous fees.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-328-010 Strawberry plant certification fees.

WSR 03-07-091

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed March 19, 2003, 8:41 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-23-094.

Title of Rule: WAC 16-401-021 Schedule of fees and charges—Facility inspection—Effective July 1, 1999, 16-401-023 Schedule of fees and charges—Establishing hourly rates, 16-401-026 Schedule of fees and charges—Applicable rates and charges—Effective June 30, 2001, 16-401-027 Schedule of fees and charges—Applicable rates and charges—Effective July 1, 2001, 16-401-031 Schedule of fees and charges—Miscellaneous charges—Effective June 30, 2001, 16-401-032 Schedule of fees and charges—Miscellaneous charges—Effective July 1, 2001, and 16-401-041 Nursery dealer license fees.

Purpose: This proposal increases nursery inspection fees within the fiscal growth factors for both fiscal year 2003 (3.29%) and fiscal year 2004 (3.2%) in WAC 16-401-027, 16-401-032, and 16-401-041. It does not increase the fees for retail nursery dealer licenses or wholesale nursery dealer licenses. In addition, it repeals WAC 16-401-026 and 16-401-031 because they set forth fee schedules that were only in effect for one day (June 30, 2001) and were superceded on July 1, 2001, by the current fee schedules. Finally, it rewrites WAC 16-401-021, 16-401-023, 16-401-027 and 16-401-032 to improve clarity as required by Executive Order 97-02.

Statutory Authority for Adoption: Chapters 15.13, 15.14 and 34.05 RCW.

Statute Being Implemented: Chapters 15.13 and 15.14 RCW.

Summary: The proposed amendments increase nursery inspection fees within the fiscal growth factors for fiscal year 2003 and fiscal year 2004. The increase will occur in two

stages, with one increase of a maximum of 3.29% effective until June 30, 2003, and the second increase of a maximum of 3.2% effective July 1, 2003.

Reasons Supporting Proposal: Current fee levels are not adequate to cover the costs of nursery inspection. The department is mandated in statute to support these activities through fees for service. The Nursery Advisory Committee, which is appointed by the director of the Department of Agriculture to advise the department on nursery related issues, supports the proposal to raise fees within the fiscal growth factor for fiscal year 2003 and fiscal year 2004.

Name of Agency Personnel Responsible for Drafting: Mary Toohey, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1907; Implementation and Enforcement: Tom Wessels, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1984.

Name of Proponent: Washington State Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule establishes the fees charged by the plant services program for activities authorized in chapter 15.13 RCW and sets forth related billing and licensing information. The current inspection fee income is not adequate to cover program costs. This has made it necessary to raise fees within the fiscal growth factors for both fiscal year 2003 and 2004. We anticipate that the program will be better able to remain financially solvent.

Proposal Changes the Following Existing Rules: This rule establishes the fee schedule for nursery inspection. Proposed changes will increase fees by a maximum of the fiscal growth factor for fiscal year 2003, effective until June 30, 2003, and another increase in fees by a maximum of the fiscal growth factor for fiscal year 2004, effective July 1, 2003. It also rewrites sections of the rule to improve clarity as required by Executive Order 97-02.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires that an agency must prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. Analysis of the economic effects of the proposed rule amendments demonstrate that the changes will not be more than a minor cost on the regulated industry and, therefore, an SBEIS is not required.

RCW 34.05.328 does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

Hearing Location: Washington State Department of Agriculture, 1111 Washington Street S.E., Natural Resources Building, 2nd Floor, Conference Room 205, Olympia, WA 98504-2560, on April 22, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Henri Gonzales by April 8, 2003, TDD (360) 902-1996.

Submit Written Comments to: Henri Gonzales, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2094, e-mail hgonzales@agr.wa.gov, by April 22, 2003.

PROPOSED

Date of Intended Adoption: May 6, 2003.

March 19, 2003

Mary A. Martin Toohey
Assistant Director

(b) Nonbusiness hours (see WAC 16-401-023) \$36.30))

PROPOSED

AMENDATORY SECTION (Amending WSR 01-11-031, filed 5/8/01, effective 6/8/01)

WAC 16-401-021 Schedule of fees and charges— Facility inspection (~~Effective July 1, 1999~~). (1) ~~The department may conduct regulatory inspections of any plant material at ((a location)) any nursery facility licensed ((as a nursery dealer)) under chapter 15.13 RCW ((is subject to regulatory inspections. A nursery inspection report will be issued,)) without additional charge except as provided in subsection (2) of this section((, stating the results of the inspection)).~~ Subsequent to each inspection the department will issue a nursery inspection report to the licensed nursery.

(2) ~~((A fee may be charged)) The department may charge a fee for repeated, subsequent inspections of ((license)) licensed locations where plant material does not meet the requirements ((set forth)) in chapter 15.13 RCW((, Provided, That)).~~ However, the ~~((license)) licensed location ((is subject)) cannot be subjected to ((no)) more than two paid inspections each license period. Fees are assessed on the basis of the time required for the inspection at the applicable hourly rate provided in this chapter ((16-401-WAC)).~~

AMENDATORY SECTION (Amending WSR 99-12-034, filed 5/26/99, effective 6/26/99)

WAC 16-401-023 Schedule of fees and charges— Establishing hourly rates. (1) Requested services are provided at the applicable hourly rate. The nonbusiness hourly rate applies for service provided before 8:00 a.m. or after 5:00 p.m. during the ~~((work day))~~ workday and for all services provided on Saturday, Sunday, or a holiday listed in subsection (2) of this section.

(2) Holidays mean New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day immediately following Thanksgiving Day, Veteran's Day, Christmas Day, President's Day, and Martin Luther King's Birthday.

(3) The hourly charge is assessed in one-half hour increments.

(4) Persons requesting service with less than twenty-four hours notice during nonbusiness hours may be subject to a charge of two additional hours at the nonbusiness hourly rate, if the department is required to pay call back to the employee(s) providing the requested service.

AMENDATORY SECTION (Amending WSR 01-11-031, filed 5/8/01, effective 6/8/01)

WAC 16-401-027 Schedule of fees and charges— Applicable rates and charges (~~Effective July 1, 2001~~). The following rates apply for requested inspection services:

~~((1)) Hourly rate:~~
(a) ~~Business hours~~ \$28.40

(1) Fee or Charge:	Effective Date	
	Until June 30, 2003	July 1, 2003
Hourly rate—business hours	\$29.33	\$30.20
Hourly rate—non-business hours	\$37.49	\$38.60
Certificate issued at time if inspection	No charge	No charge
Certificate issued more than twenty-four hours after the inspection	\$14.04	\$14.40
Additional certificates	\$4.54	\$4.60
Fumigation lot or container fee	\$11.72	\$12.05
Certificate of plant health for noncommercial movement	\$5.83	\$6.00
Compliance agreement	\$29.33	\$30.20
Inspection tags or stickers (lots of 250)	\$5.83 per lot	\$6.00 per lot
Inspection tags or stickers (minimum 10)	\$0.278 each	\$0.28 each

(2) Mileage at the established office of financial management rate (schedule A), per diem at actual cost, and travel time at the applicable hourly rate may be assessed for requested inspections that are not a part of a regular work schedule. Such charge may be prorated among applicants if more than one applicant is provided service during a ~~((work day))~~ workday or trip when mileage and/or per diem are applicable.

(3) Inspections for phytosanitary certification, including growing season field inspections, are provided at the applicable hourly rate provided in subsection (1) of this section except where an alternate certification inspection fee is provided in statute, in rule, or by a written agreement between the department and an industry entity, university, or public agency. When growing season field inspections for phytosanitary certification and regulatory inspections are performed simultaneously, the first two hours of inspection each calendar year for nurseries licensed under WAC 16-401-041 (1)(b) or (2)(a); and the first four hours of inspection per calendar year for nurseries licensed under WAC 16-401-041 (1)(c) or (2)(b), are without charge.

~~((a))~~ There is no additional charge for the first phytosanitary certificate issued at the time of the inspection.

~~((b)) Phytosanitary certificates issued more than twenty-four hours from the time of the inspection, first certificate~~

..... \$13.60
(c) Additional phytosanitary certificates \$4.40 ea.))

(4) Inspection and certification of nonplant material or equipment for sanitation (freedom from soil or pests) by visual examination or through witnessing a prescribed treatment (steam cleaning, hydro-washing, etc.) is charged at the applicable hourly rate.

~~((a) There is no additional charge for the first certificate.~~

~~(b) Additional certificates \$4.40~~

~~(5) Inspections for garden brown snail certification or other miscellaneous inspection certification are charged at the applicable hourly rate.~~

~~(a) For the first certificate no charge~~

~~(b) For additional certificates \$4.40~~

~~(6)) (5) Witnessing and certification of fumigation is charged at the applicable hourly rate, plus a per lot or container fee ((of~~

~~..... \$11.35~~

~~(7) For)).~~

(6) The department may issue a certificate of plant health for noncommercial movement of plant materials between states by unlicensed persons, up to a maximum of five plants, and provided that the plants are brought to a plant services office for inspection((.....\$5.65)).

Note: When two or more types of inspection, provided in this section, are performed simultaneously, only one hourly rate applies. One certificate for one service is issued at no charge. ((Additional certificates are issued at the \$4.40 rate.))

AMENDATORY SECTION (Amending WSR 01-11-031, filed 5/8/01, effective 6/8/01)

WAC 16-401-032 Schedule of fees and charges—Miscellaneous charges((~~Effective July 1, 2001~~)). The following rates for miscellaneous charges on requested inspections shall apply.

(1) Postage, special handling services and other miscellaneous costs exceeding five dollars are charges at the actual cost.

(2) Other requested office services, not specifically provided for, are charged a fee based on the portion of an hour at the applicable hourly rate in this chapter ((~~16-401-WAC~~)).

~~((3) Nursery stickers and nursery stock inspection certificate tags:~~

~~(a) In lots of 250 \$5.65 per lot~~

~~(b) Less than 250 (minimum 10) \$0.27~~

~~(4) Authorization by the department to preprint Washington nursery stock inspection certificates on shipping containers, yearly authorization fee or renewal \$28.40))~~

AMENDATORY SECTION (Amending WSR 01-11-031, filed 5/8/01, effective 6/8/01)

WAC 16-401-041 Nursery dealer license fees. Annual license fees as established below, must accompany the application for nursery dealer license:

(1) Retail nursery dealer license fee:

(a) Gross business sales of horticultural plants and turf less than two thousand five hundred dollars \$37.67

(b) Gross business sales of horticultural plants and turf between two thousand five hundred dollars and fifteen thousand dollars, the license fee is \$80.72

(c) Gross business sales of horticultural plants and turf of fifteen thousand dollars or more \$161.45

(2) Wholesale nursery dealer license fee:

(a) Gross business sales of horticultural plants and turf less than fifteen thousand dollars \$80.72

(b) Gross business sales of horticultural plants and turf of fifteen thousand dollars or more \$161.45

(3) As provided in RCW 15.13.285, a surcharge of twenty percent of the base rate, in addition to the fees established on all classes of licenses in subsections (1) and (2) of this section, is established.

(4) Permit fee for those types of sales and organizations exempted from licensing requirements by RCW 15.13.270.

(a) Effective until June 30, ((2001, per permit. \$5.50)) 2003 \$5.83

(b) Effective July 1, ((2001, per permit. \$5.65)) 2003 \$6.00

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-401-026 Schedule of fees and charges—Applicable rates and charges—Effective June 30, 2001.

WAC 16-401-031 Schedule of fees and charges—Miscellaneous charges—Effective June 30, 2001.

WSR 03-07-092

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed March 19, 2003, 8:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-23-095.

Title of Rule: WAC 16-470-905 Schedule of fees and charges—Establishing hourly rates, 16-470-911 Schedule of fees and charges—Applicable fees and charges—Effective June 30, 2001, 16-470-912 Schedule of fees and charge—Applicable fees and charges—Effective July 1, 2001, 16-470-916 Schedule of fees and charges—Fees for post entry inspection services—Effective June 30, 2001, 16-470-917 Schedule of fees and charges—Fees for post entry inspection services—Effective July 1, 2001, and 16-470-921 Schedule of fees and charges—Miscellaneous fees—Effective July 1, 1999.

Purpose: This proposal increases plant pathology fees (except virus identity determinations) within the fiscal growth factors for both fiscal year 2003 (3.29%) and fiscal year 2004 (3.2%) in WAC 16-470-912 and 16-470-917. For

PROPOSED

virus identity determinations the fee for 1-9 samples will be charged at cost, the fee for 10-99 samples is decreased significantly, and the fee for 100+ samples is increased within the fiscal growth factors. The proposal also clarifies the requirements for services provided by written agreement. In addition, it repeals WAC 16-470-911 and 16-470-916 because they set forth fee schedules that were only in effect for one day (June 30, 2001) and were superceded on July 1, 2001, by the current fee schedules. Finally, it rewrites WAC 16-470-905, 16-470-912, 16-470-917, and 16-470-921 to improve clarity as required by Executive Order 97-02.

Statutory Authority for Adoption: Chapters 17.24 and 34.05 RCW.

Statute Being Implemented: Chapter 17.24 RCW.

Summary: The proposed amendments increase plant pathology fees within the fiscal growth factors for fiscal year 2003 and fiscal year 2004. The increase will occur in two stages, with one increase of a maximum of 3.29% effective until June 30, 2003, and the second increase of a maximum of 3.2% effective July 1, 2003.

Reasons Supporting Proposal: Current fee levels are not adequate to cover the costs of administering the program. The Nursery Advisory Committee, which is appointed by the director of the Department of Agriculture to advise the department on nursery related issues, supports the proposal to raise fees within the fiscal growth factors for fiscal year 2003 and fiscal year 2004.

Name of Agency Personnel Responsible for Drafting: Mary Toohey, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1907; Implementation and Enforcement: Tom Wessels, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1984.

Name of Proponent: Washington State Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule establishes the fees charged for the plant pest detection, testing, inspection and documentation by the pest and plant services programs. The current plant pest detection testing and inspection fee income is not adequate to cover costs of these activities. This makes it necessary to raise fees within the fiscal growth factors for both fiscal year 2003 and 2004. Changes mandated in the regulatory reform statutes (i.e. clear and readable format) have also made modification necessary. We anticipate that the fee-supported program activities will be self-supporting (as required by statute) and will continue to be available to users, and that the rules will be easier for the public to understand.

Proposal Changes the Following Existing Rules: This rule establishes the fee schedule for activities authorized in chapter 17.24 RCW. These activities include inspection, testing, plant disease identification, and documentation services offered to the agricultural and nursery industries and other through the plant services and pest program. Proposed changes will increase fees by a maximum of the fiscal growth factor for fiscal year 2003, effective until June 30, 2003, and another increase in fees by a maximum of the fiscal growth factor for fiscal year 2004, effective July 1, 2003. The proposal also clarifies the criteria for negotiating the rate for

large projects and rewrites sections of the rule to improve clarity as required by Executive Order 97-02.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires that an agency must prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. Analysis of the economic effects of the proposed rule amendments demonstrate that the changes will not be more than a minor cost on the regulated industry and, therefore, an SBEIS is not required.

RCW 34.05.328 does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

Hearing Location: Washington State Department of Agriculture, 1111 Washington Street S.E., Natural Resources Building, 2nd Floor, Conference Room 205, Olympia, WA 98504-2560, on April 22, 2003, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Henri Gonzales by April 8, 2003, TDD (360) 902-1996.

Submit Written Comments to: Henri Gonzales, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2094, e-mail hgonzales@agr.wa.gov, by April 22, 2003.

Date of Intended Adoption: May 6, 2003.

March 19, 2003

Mary A. Martin Toohey

Assistant Director

AMENDATORY SECTION (Amending WSR 99-12-035, filed 5/26/99, effective 6/26/99)

WAC 16-470-905 Schedule of fees and charges—Establishing hourly rates. (1) Requested services are provided at the applicable hourly rate except as provided in ~~((WAC 16-470-905))~~ subsection (5) of this section. The hourly rate for nonbusiness hours applies for service provided before 8:00 a.m. or after 5:00 p.m. during the ~~((work day))~~ workday and for all services provided on Saturday, Sunday, or on a holiday listed in subsection (2) of this section.

(2) Holidays shall mean New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day immediately following Thanksgiving Day, Veteran's Day, Christmas Day, President's Day, and Martin Luther King's Birthday.

(3) Charges are assessed in one-half hour increments.

(4) Persons requesting service with less than twenty-four hours notice during nonbusiness hours, may be subject to a charge of two additional hours at the nonbusiness hourly rate if the department is required to pay call back pay to the employee(s) providing the requested service.

(5) ~~((For large projects,))~~ The department reserves the right to provide service by written agreement at a single, negotiated cost or at a negotiated rate for projects with one of the following characteristics:

(a) Projects requiring multiple periodic inspections and/or certificates; or

(b) Projects requiring field inspections of crops not regulated under chapter 15.13 or 15.14 RCW.

The rate charged shall not be less than the cost to the department of providing the services.

AMENDATORY SECTION (Amending WSR 01-11-033, filed 5/8/01, effective 6/8/01)

WAC 16-470-912 Schedule of fees and charges—Applicable fees and charges~~((—Effective July 1, 2001)).~~

(1) Hourly rate.

~~((a) Business hours \$28.40~~

~~((b) Nonbusiness hours (see WAC 16-407-905) \$36.30))~~

	<u>Effective until June 30, 2003</u>	<u>Effective July 1, 2003</u>
<u>Hourly rate - business hours</u>	<u>\$29.33</u>	<u>\$30.20</u>
<u>Hourly rate - nonbusiness hours</u>	<u>\$37.49</u>	<u>\$38.60</u>

(2) Laboratory diagnostic services, except as provided in subsection (3) or (4) of this section, are charged at the applicable hourly rate plus materials.

(3) Plant pathology laboratory diagnostic fees are as follows:

Effective until June 30, 2003

<u>Identity Determination</u>	<u>Effective until June 30, 2003</u>				
	<u>1 sample</u>	<u>5 samples</u>	<u>10 samples</u>	<u>50 samples</u>	<u>100+ samples</u>
<u>virus (ELISA) ea</u>	(((\$85.30)) <u>At cost</u>	(((\$62.45)) <u>At cost</u>	(((\$47.70)) <u>2.70 ea</u>	(((\$18.10)) <u>4.85 ea</u>	(((\$2.75)) <u>2.84 ea</u>
<u>bacteria</u>	(((\$37.60)) <u>38.83 ea</u>	(((\$36.30)) <u>37.49 ea</u>	(((\$34.05)) <u>35.17 ea</u>	(((\$32.90)) <u>33.98 ea</u>	(((\$32.90)) <u>33.98 ea</u>
<u>fungus</u>	(((\$39.75)) <u>41.05 ea</u>	(((\$34.05)) <u>35.17 ea</u>	(((\$32.90)) <u>33.98 ea</u>	(((\$31.80)) <u>32.84 ea</u>	(((\$29.50)) <u>30.47 ea</u>
<u>nematode</u>	(((\$29.50)) <u>30.47 ea</u>	(((\$27.20)) <u>28.09 ea</u>	(((\$24.95)) <u>25.77 ea</u>	(((\$24.90)) <u>25.71 ea</u>	(((\$22.70)) <u>23.44 ea</u>

Note: To receive volume rates, samples must be submitted as a unit and identification requests must be for one specific virus, bacterium, fungus, or nematode. Samples tested for multiple pathogens will be considered as multiple samples unless all pathogens can be detected in a single test without additional inputs.

Effective July 1, 2003

<u>Identity Determination</u>	<u>Effective July 1, 2003</u>				
	<u>1 sample</u>	<u>5 samples</u>	<u>10 samples</u>	<u>50 samples</u>	<u>100+ samples</u>
<u>virus (ELISA)</u>	<u>At cost</u>	<u>At cost</u>	<u>\$10.00 ea</u>	<u>\$5.00 ea</u>	<u>\$2.90 ea</u>
<u>bacteria</u>	<u>40.05 ea</u>	<u>38.65 ea</u>	<u>36.25 ea</u>	<u>35.05 ea</u>	<u>35.05 ea</u>
<u>fungus</u>	<u>42.35 ea</u>	<u>36.25 ea</u>	<u>35.05 ea</u>	<u>33.85 ea</u>	<u>31.40 ea</u>
<u>nematode</u>	<u>31.40 ea</u>	<u>28.95 ea</u>	<u>26.55 ea</u>	<u>25.90 ea</u>	<u>24.15 ea</u>

Note: To receive volume rates, samples must be submitted as a unit and identification requests must be for one specific virus, bacterium, fungus, or nematode. Samples tested for multiple pathogens will be considered as multiple samples unless all pathogens can be detected in a single test without additional inputs.

(4) ~~((For large projects,))~~ The department reserves the right to provide service by written agreement at a single, negotiated cost or at a negotiated rate for projects with at least one of the following characteristics:

(a) Projects greater than one hundred samples;

(b) Projects requiring materials not readily available; or

(c) Projects requiring special handling or prolonged incubation periods.

The rate charged shall not be less than the cost to the department of performing the tests.

AMENDATORY SECTION (Amending WSR 01-11-033, filed 5/8/01, effective 6/8/01)

WAC 16-470-917 Schedule of fees and charges—Fees for post entry inspection services~~((—Effective July 1, 2001)).~~ (1) Post entry site inspection and/or permit review and approval

~~((..... \$56.80))~~

(a) Effective until June 30, 2003 \$58.66

(b) Effective July 1, 2003 \$60.50

(2) Subsequent inspections of post entry plant materials are provided at the applicable hourly rate.

(3) Post entry inspection fees may be waived for state universities, United States Department of Agriculture researchers, and other public entities.

AMENDATORY SECTION (Amending WSR 01-11-033, filed 5/8/01, effective 6/8/01)

WAC 16-470-921 Schedule of fees and charges—Miscellaneous fees~~((—Effective July 1, 1999)).~~ (1) Mileage at the established office of financial management rate (schedule A), per diem at actual cost, and travel time at the applicable hourly rate may be assessed for requested inspections or post entry inspections that are not a part of a regular work schedule. Such charges may be prorated among applicants if more than one applicant is provided service during a workday or trip when per diem is applicable.

(2) Postage, special handling services and other miscellaneous costs exceeding five dollars ~~((are))~~ will be charged back to the applicant at the actual cost.

(3) Certificates of inspection, phytosanitary certificates, and other official documents ~~((are))~~ will be provided to the applicant subject to the charges and conditions established in chapter 16-401 WAC.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-470-911 Schedule of fees and charges—Applicable fees and charges—Effective June 30, 2001.

WAC 16-470-916 Schedule of fees and charges—Fees for post entry

PROPOSED

inspection services—Effective June 30, 2001.

WSR 03-07-093
PROPOSED RULES
PUBLIC EMPLOYMENT
RELATIONS COMMISSION
 [Filed March 19, 2003, 9:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-03-066.

Title of Rule: Amendments to chapters 391-08 and 391-25 WAC.

Purpose: To reflect current practice concerning publication of agency decisions, to repeal option for institutions of higher education and exclusive bargaining representatives under RCW 41.56.201 effective July 1, 2003, to provide procedure to consolidate representation petitions involving same employees, and to allow an employee organization representing two or more bargaining units of state civil service employees to obtain merger of units.

Statutory Authority for Adoption: RCW 28B.52.080, 41.06.340, 41.56.090, 41.58.050, 41.59.110, and 41.76.060.

Statute Being Implemented: WAC 391-08-670 is RCW 34.05.220; WAC 391-25-210 is RCW 41.56.070, 41.59.070, 41.80.080; and WAC 391-25-426 is RCW 41.80.070(3).

Summary: Rule changes are proposed regarding (1) publication of agency decisions on website; (2) repeal of WAC 391-25-011 implementing option to bring bargaining units of classified employees of institutions of higher education under chapter 41.56 RCW; (3) consolidation of pending petitions under chapter 391-25 WAC involving any or all of same employees; (4) repeal WAC 391-25-216 modifying intervenor rule for petitions involving state civil service employees; and (5) adopt as a permanent rule WAC 391-25-426, providing for merger of two or more state civil service employee bargaining units represented by same employee organization, if commission finds merged unit to be appropriate.

Reasons Supporting Proposal: To implement new agency procedure for publication of decisions, and to comply with chapter 41.80 RCW, Personnel System Reform Act - PSRA.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark S. Downing, 711 Capitol Way, Suite 603, Olympia, WA, (360) 570-7305.

Name of Proponent: Agency, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Agency supports proposed rule changes.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Clientele can use agency website to research all decisions issued since agency was created in 1976. Notice is provided that option under RCW 41.56.201 is repealed effective July 1, 2003. Consolidation of representation petitions is

provided, so commission can fulfill statutory requirement to determine appropriate bargaining unit(s).

Proposal Changes the Following Existing Rules: WAC 391-08-670 is amended to delete reference to agency use of commercially published index of its decisions. WAC 391-25-011 is repealed effective July 1, 2003. WAC 391-25-210 is amended to provide that (1) intervenor with 10% showing of interest shall not be permitted to seek bargaining unit configuration different than unit proposed by original petitioner; and (2) petitions filed by two or more organizations involving any or all of same employees shall be consolidated, if filed before issuance of a notice of election in another proceeding or before commencement of a cross-check in another proceeding, and the proceedings shall be consolidated for resolution of the description of bargaining unit(s).

No small business economic impact statement has been prepared under chapter 19.85 RCW. Agency rules only obligate public employees and unions representing public employees, and do not impose costs on profit-making businesses.

RCW 34.05.328 does not apply to this rule adoption. Agency rules are excepted by RCW 34.05.328 (5)(a)(i) from the provisions of RCW 34.05.328.

Hearing Location: Second Floor Conference Room, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA, on May 13, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact James E. Lohr by May 6, 2003, (360) 570-7310.

Submit Written Comments to: Mark S. Downing, Rules Coordinator, Public Employment Relations Commission, P.O. Box 40919, Olympia, WA 98504-0919, fax, (360) 570-7334, info@perc.wa.gov, by May 6, 2003.

Date of Intended Adoption: May 13, 2003.

March 19, 2003

Marvin L. Schurke
 Executive Director

AMENDATORY SECTION (Amending WSR 03-03-064, filed 1/14/03, effective 2/14/03)

WAC 391-08-670 Decision numbering—Citation of cases—Indexing of decisions. (1) Each decision issued by the agency in an adjudicative proceeding under the Administrative Procedure Act is assigned a unique number consisting of two or three components, as follows:

(a) The first component, consisting of a number, indicates the sequential number of adjudicative proceedings in which one or more decisions has been issued since the agency commenced operations on January 1, 1976.

(b) The second component (where appropriate) consisting of an alphabetic code in ascending alphabetical order, indicates the second and subsequent decisions issued in the case to which the numerical component was originally assigned.

(c) The third component, consisting of a four-letter alphabetic code, indicates the statute under which the decision was issued:

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"CCOL" indicates cases decided under chapter 28B.52 RCW (Collective Bargaining—Academic Personnel in Community Colleges).

"EDUC" indicates cases decided under chapter 41.59 RCW (Educational Employment Relations Act).

"FCBA" indicates cases decided under chapter 41.76 RCW (faculty at public four-year institutions of higher education).

"MRNE" (no longer in use) was formerly used to indicate cases decided under chapter 47.64 RCW, relating to the Washington state ferries system.

"PECB" indicates cases decided under chapter 41.56 RCW (Public Employees' Collective Bargaining Act), including some cases involving port districts.

"PORT" indicates cases decided exclusively under chapter 53.18 RCW (Employment Relations—Collective Bargaining and Arbitration), relating to port districts.

"PRIV" indicates cases decided under chapter 49.08 RCW, relating to private sector employers and employees.

"PSRA" indicates cases decided under RCW 41.06.340 and/or chapter 41.80 RCW (Personnel System Reform Act).

(2) All citations of agency decisions in subsequent agency decisions, in publications of agency decisions, and in briefs and written arguments filed by parties with the agency shall conform to the formats specified in this section:

GENERAL RULE: Citations shall list only the name of the employer *italicized*, the word "Decision" followed by the decision number, and the statute and year the decision was issued (in parenthesis).

Examples:

- City of Roe, Decision 1234 (PECB, 1992)
City of Roe, Decision 1234-A (PECB, 1993)
City of Roe, Decision 1234-B (PECB, 1994)

EXCEPTION ((+ For decisions being cited within the first year following their issuance, the full date of issuance may be set forth.

Example:

City of Roe, Decision 1234-C (PECB, December 15, 1995)

EXCEPTION 2:)) For decisions in which an employee organization or labor organization was named as the respondent in an unfair labor practice case, the citation shall list the name of the union (in parenthesis) following the name of the employer.

Example:

City of Roe (Doe Union), Decision 2345 (PECB, 1995)

(3) The agency encourages the publication and indexing of its decisions by private firms, but does not contribute financial support to any such firm and declines to declare any private firm as the "official reporter" of agency decisions.

(4) ((The agency uses a commercially published index of its decisions, along with commercially produced computer assisted research tools, in its own operations. The agency

makes those indexes available to the public in its offices,)) To satisfy the requirements of RCW 42.17.260(5), the agency publishes its decisions, together with a search engine, on its website at: "www.perc.wa.gov".

AMENDATORY SECTION (Amending WSR 01-14-009, filed 6/22/01, effective 8/1/01)

WAC 391-25-210 Bargaining unit configurations((— Positions limited by showing of interest)). (1) In proceedings on a petition for "decertification" under WAC 391-25-070 (6)(c) or 391-25-090(2), the parties shall not be permitted to remove positions from or add positions to the existing bargaining unit;

(2) An organization which files a motion for intervention under WAC 391-25-190 shall ((only)) not be permitted to seek a bargaining unit configuration different than proposed by the original petitioner ((if the intervenor furnishes a showing of interest demonstrating that it has the support of thirty percent or more of the employees in the bargaining unit which the intervenor claims to be appropriate)).

(3) If petitions filed by two or more organizations under this chapter are pending before the agency at the same time and involve any or all of the same employees, the timeliness of the respective petitions and the sufficiency of the respective showings of interest shall be determined separately and the proceedings shall be consolidated for resolution of all issues concerning the description(s) of the bargaining unit(s). A petition filed after the issuance of a notice of election in another proceeding under WAC 391-25-430 or after the commencement of a cross-check in another proceeding under WAC 391-25-410 shall be dismissed as untimely.

(4) A party to proceedings under this chapter shall not be permitted to propose more than one bargaining unit configuration for the same employee or employees, except where a merger of bargaining units is proposed under WAC 391-25-420.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 391-25-011 Special provision—Optional coverage of classified employees of institutions of higher education under chapter 41.56 RCW.

WAC 391-25-216 Special provision—State civil service employees.

NEW SECTION

WAC 391-25-426 Special provision—State civil service employees. An employee organization that represents two or more bargaining units of state civil service employees may obtain a merger of those units by filing a petition under WAC 391-25-420 (2)(a). If the merged unit is found to be appropriate under WAC 391-25-420 (2)(c)(i) and (ii), the

employee organization shall be certified as exclusive bargaining representative without need for unit determination elections.

WSR 03-07-094
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed March 19, 2003, 10:26 a.m.]

Original Notice.

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

Title of Rule: Update of well-logging and dosimetry requirement, WAC 246-243-150, 246-244-020, 246-244-080, 246-244-110, 246-244-115, 246-244-160, and 246-244-240.

Purpose: To bring radiation protection regulations into conformance with the United States Nuclear Regulatory Commission rules and RCW 70.98.050 regarding well-logging operations and to allow licensees to use dosimetry from providers accredited by the National Institute of Standards and Technology.

Statutory Authority for Adoption: RCW 70.98.050.

Statute Being Implemented: RCW 70.98.050.

Summary: The proposed rule adds basic definitions (WAC 246-244-020); allows use of energy compensation and tritium neutron generator target sources (WAC 246-244-115); updates design, performance and testing criteria (WAC 246-244-110); updates leak testing requirements for sources (WAC 246-244-080); updates requirements related to abandonment procedures (WAC 246-244-030 and 246-244-240); and allows the use of accredited personnel dosimetry providers (WAC 246-232-150 and 246-244-160).

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Terry C. Frazee, 7171 Cleanwater Lane, Tumwater, (360) 236-3221.

Name of Proponent: Washington State Department of Health, governmental.

Rule is necessary because of federal law, 65 FR 20337; 65 FR 63750.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule updates the requirements for well-logging operations (including revised procedures for certain emergencies such as source abandonment, design specifications and testing criteria for use of certain small sources, and specific leak testing criteria) and allows licensees to use nationally accredited providers of personnel dosimetry. These changes are required for compatibility with the United States Nuclear Regulatory Commission (USNRC) and RCW 70.98.050. The anticipated effect of these changes is to bring Washington's radioactive materials licensees into conformance with national standards.

Proposal Changes the Following Existing Rules: WAC 246-244-020 is amended to add certain required definitions; WAC 246-244-030 and 246-244-240 are amended to update notification procedures for inadvertent intrusion and source abandonment; WAC 246-244-080 is amended to spell out leak testing requirements; WAC 246-244-110 is amended to

specify design, performance and testing criteria for radioactive sources; and WAC 246-243-150 and 246-244-160 are amended to allow the use of accredited dosimetry providers.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule change is exempt from the small business impact statement requirement under RCW 19.85.025(3) because it adopts federal regulations without material change. This rule includes several federal rule changes for which "regulatory flexibility certifications" were prepared by USNRC stating that the "rule will not have a significant economic impact upon a substantial number of small entities."

RCW 34.05.328 does not apply to this rule adoption. Under RCW 34.05.328 (5)(b)(iii) and (iv), RCW 34.05.328 does not apply to this rule adoption because this rule adopts federal regulations without material change and clarifies the language of a rule or otherwise makes housekeeping changes. This rule is for conformance with the USNRC regulations and is mandatory under our agreement state status with the federal government.

Hearing Location: Washington State Department of Health, Radiation Materials Section, 7171 Cleanwater Lane, Building 5 Conference Room, Tumwater, WA 98504, on April 22, 2003, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Terry Frazee by April 15, 2003, TDD (800) 833-6388 or fax (360) 236-2255.

Submit Written Comments to: Terry C. Frazee, Supervisor, Radioactive Materials Section, P.O. Box 47827, Olympia, WA 98504-7827, (360) 236-3213, e-mail terry.frazee@doh.wa.gov.

Date of Intended Adoption: April 22, 2003.

March 18, 2003

M. C. Selecky

Secretary

AMENDATORY SECTION (Amending WSR 00-08-013, filed 3/24/00, effective 4/24/00)

WAC 246-243-150 Personnel monitoring control. (1) ((No)) A licensee ((shall)) may not permit any individual to act as a radiographer or as a radiographer's assistant unless, at all times during radiographic operations, ((each such)) the individual ((shall)) wears ((on the trunk of the body a combination of an approved personnel dosimeter such as a film or TLD badge,)) a direct reading pocket dosimeter, ((and)) an alarming rate meter, and a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor on the trunk of the body. In permanent facilities where other appropriate alarming or warning devices are in routine use, the wearing of an alarming rate meter is not required.

(a) Pocket dosimeters ((shall)) must be capable of measuring exposures from zero to at least 200 milliroentgens. Electronic personal dosimeters may only be used in place of ion-chamber pocket dosimeters.

(b) ((A film or TLD badge or other approved)) Each personnel dosimeter shall be assigned to and worn by only one individual.

(c) Film badges must be replaced at periods not to exceed one month and ~~((TLDs)) other personnel dosimeters processed and evaluated by an accredited NVLAP processor~~ must be replaced at periods not to exceed three months.

(d) After replacement, each ~~((film badge or TLD)) personnel dosimeter~~ must be processed as soon as possible.

(2)(a) Direct reading dosimeters such as pocket dosimeters or electronic personal dosimeters shall be read and exposures recorded at the beginning and end of each shift. Pocket dosimeters shall be charged at the beginning of each shift. Pocket dosimeters shall be checked annually at periods not to exceed twelve months for correct response to radiation. Acceptable dosimeters shall read within plus or minus twenty percent of the true radiation exposure.

(b) Each alarming rate meter must:

(i) Be checked to ensure that the alarm functions properly (sounds) prior to use at the start of each shift;

(ii) Be set to give an alarm signal at a maximum preset rate of 5 mSv/hr. (500 mR/hr.);

(iii) Require special means to change the preset alarm functions; and

(iv) Be calibrated annually at periods not to exceed twelve months for correct response to radiation: Acceptable rate meters must alarm within plus or minus twenty percent of the true radiation exposure rate.

(3) If an individual's pocket dosimeter is found to be off-scale, or if his or her electronic personal dosimeter reads greater than 2 millisieverts (200 millirems), and the possibility of radiation exposure cannot be ruled out as the cause, the individual's ~~((film badge or TLD)) personnel dosimeter~~ must be sent for processing within twenty-four hours. In addition, the individual may not resume work associated with licensed material use until a determination of the individual's radiation exposure has been made. This determination shall be made by the RSO or the RSO's designee.

(4) If ~~((a film badge or TLD)) the personnel dosimeter required by this section~~ is lost or damaged, the worker shall cease work immediately until a replacement ~~((film badge or TLD)) personnel dosimeter~~ is provided and the exposure is calculated for the time period from issuance to loss or damage of the ~~((film badge or TLD)) personnel dosimeter~~.

(5) Each licensee shall maintain the following exposure records:

(a) Direct reading dosimeter readings and yearly operability checks required by subsection (2) of this section for three years after the record is made.

(b) Records of alarm rate meter calibrations for three years after the record is made.

(c) Reports received from the ~~((film badge or TLD)) personnel dosimeter accredited NVLAP processor~~ until the department terminates the licensee.

(d) Records of estimates of exposures as a result of: Off-scale personal direct reading dosimeters, or lost or damaged ~~((film badges or TLDs)) personnel dosimeters~~, until the department terminates the license. The time period for which the personnel dosimeter was lost or damaged shall be included in the records.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-244-020 Definitions. As used in this chapter, the following definitions apply:

(1) "Casing" means a metal pipe or tube used as a lining for oil or gas wells to prevent collapse of the well-bore.

(2) "Energy compensation source" (ECS) means a small sealed source, with an activity not exceeding 3.7 MBq (100 microcuries), used within a logging tool, or other tool components, to provide a reference standard to maintain the tool's calibration when in use.

(3) "Field station" means a facility where radioactive sources may be stored or used and from which equipment is dispatched to temporary job sites.

~~((3))~~ (4) "Fresh water aquifer" means a geological formation that is capable of yielding a significant amount of fresh water to a well or spring.

~~((4))~~ (5) "Injection tool" means a device used for controlled subsurface injection of radioactive tracer material.

~~((5))~~ (6) "Irretrievable well-logging source" means any sealed source containing licensed material that is pulled off or not connected to the wireline that suspends the source in the well and for which all reasonable effort at recovery has been expended.

~~((6))~~ (7) "Logging assistant" means an individual who assists the logging supervisor in performing the well-logging operations.

~~((7))~~ (8) "Logging supervisor" means an individual who provides personal supervision of the use of licensed material at the temporary job site and who is responsible to the licensee for assuring compliance with requirements of the department's regulations and the conditions of the license.

~~((8))~~ (9) "Logging tool" means a device used subsurface to perform well-logging.

~~((9))~~ (10) "Mineral logging" means any logging performed for the purpose of mineral (including water) exploration other than oil or gas.

~~((10))~~ (11) "Personal supervision" means guidance and instruction by the supervisor who is physically present at the job site and watching the performance of the operation in such proximity that contact is maintained and immediate assistance given as required.

~~((11))~~ (12) "Radioactive marker" means licensed material used for the purpose of depth determination or direction orientation. This term includes radioactive collar markers and radioactive iron nails.

~~((12))~~ (13) "Sealed source" means any licensed material that is encased in a capsule designed to prevent leakage or escape of the radioactive material.

~~((13))~~ (14) "Source holder" means the housing or assembly into which a radioactive source is placed for the purpose of facilitating the handling and use of such source in well-logging operations.

~~((14))~~ (15) "Subsurface tracer study" means, for the purpose of this chapter, the release of unsealed licensed material or a substance labeled with licensed material in a single well or multiple wells for the purpose of tracing the movement or position of the material or substance in the well-bore

or adjacent formation(s) (this term does not include the use of licensed material in field flooding studies).

~~((15))~~ (16) "Surface casing" means a pipe or tube used as a lining in a well to isolate the fresh water zone from the well.

~~((16))~~ (17) "Temporary job site" means any location to which radioactive materials have been dispatched or taken to perform wireline service operations or subsurface tracer studies.

~~((17))~~ (18) "Tritium neutron generator target source" means a tritium source used within a neutron generator tube to produce neutrons for use in well-logging applications.

(19) "Uranium sinker bar" means a weight containing depleted uranium used for the purpose of providing additional force to pull a logging tool down toward the bottom of a well.

~~((18))~~ (20) "Well-bore" means any drilled hole in which wireline service operations and/or subsurface tracer studies are performed.

~~((19))~~ (21) "Well-logging" means the lowering and raising of measuring devices or tools which contain sources of radiation into well-bores or cavities (salt domes, etc.) for the purpose of obtaining information about the well and/or adjacent formations which may be used in oil, gas, mineral or geological explorations.

~~((20))~~ (22) "Well-logging operation" means any activity involving licensed material performed in a well, including well-logging, mineral logging, subsurface tracer studies, use of radioactive markers, radioactive iron nails, uranium sinker bars, and radioactive sands, and transportation or storage of same.

~~((21))~~ (23) "Wireline" means a cable containing one or more electrical conductors which is used to lower and raise logging tools in the well-bore.

~~((22))~~ (24) "Wireline service operation" means any evaluation or mechanical service which is performed in the well-bore using devices containing radioactive material on a wireline.

AMENDATORY SECTION (Amending Order 184, filed 7/24/91, effective 8/24/91)

WAC 246-244-030 ((Prohibitions)) Agreement with well owner or operator. ~~((No licensee shall perform wireline service operations with a sealed source(s) or conduct subsurface tracer studies with sources of radiation unless, prior to commencement of the operation, the licensee has a written agreement with the well operator, well owner, drilling contractor, or land owner that:~~

~~(1) In the event a sealed source is lodged downhole every reasonable effort at recovery will be made;~~

~~(2) Potentially contaminated equipment or areas will not be released until an acceptable and documented survey is performed;~~

~~(3) Specific types of recovery operations which could endanger the integrity of the sealed source encapsulation will not be permitted or conducted; and~~

~~(4) In the event a decision is made to abandon the sealed source downhole, requirements of WAC 246-244-240 shall be met.))~~ (1) A licensee may perform well logging with a

sealed source only after the licensee has a written agreement with the employing well owner or operator. This written agreement must identify who will meet the following requirements:

(a) If a sealed source becomes lodged in the well, a reasonable effort will be made to recover it.

(b) A person may not attempt to recover a sealed source in a manner which, in the licensee's opinion, could result in its rupture.

(c) The radiation monitoring required in WAC 246-244-210 will be performed.

(d) If the environment, any equipment, or personnel are contaminated with licensed material, they must be decontaminated before release from the site or release for unrestricted use.

(e) If the sealed source is classified as irretrievable after reasonable efforts at recovery have been expended, the following requirements must be implemented within thirty days:

(i) Each irretrievable well-logging source must be immobilized and sealed in place with a cement plug;

(ii) A means to prevent inadvertent intrusion on the source, unless the source is not accessible to any subsequent drilling operations; and

(iii) A permanent identification plaque, constructed of long lasting material such as stainless steel, brass, bronze, or monel, must be mounted at the surface of the well, unless the mounting of the plaque is not practical. The size of the plaque must be at least 17 cm (7 inches) square and 3 mm (1/8-inch) thick. The plaque must contain—

(A) The word "CAUTION";

(B) The radiation symbol (the color requirement in WAC 246-221-120(1) need not be met);

(C) The date the source was abandoned;

(D) The name of the well owner or well operator, as appropriate;

(E) The well name and well identification number(s) or other designation;

(F) An identification of the sealed source(s) by radionuclide and quantity;

(G) The depth of the source and depth to the top of the plug; and

(H) An appropriate warning, such as, "DO NOT REENTER THIS WELL."

(2) The licensee shall retain a copy of the written agreement for three years after the completion of the well-logging operation.

(3) A licensee may apply, under WAC 246-220-050, for department approval, on a case-by-case basis, of proposed procedures to abandon an irretrievable well-logging source in a manner not otherwise authorized in subsection (1)(e) of this section.

(4) A written agreement between the licensee and the well owner or operator is not required if the licensee and the well owner or operator are part of the same corporate structure or otherwise similarly affiliated. However, the licensee shall still otherwise meet the requirements in subsection (1) of this section.

AMENDATORY SECTION (Amending Order 184, filed 7/24/91, effective 8/24/91)

WAC 246-244-080 Leak testing of sealed sources. ~~((Each licensee utilizing sealed sources of radioactive material shall have the sources tested for leakage and/or contamination in accordance with WAC 246-221-080.))~~ (1) Testing and recordkeeping requirements. Each licensee who uses a sealed source shall have the source tested for leakage periodically. The licensee shall keep a record of leak test results in units of becquerels (or microcuries) and retain the record for inspection by the department for three years after the leak test is performed.

(2) Method of testing. The wipe of a sealed source must be performed using a leak test kit or method approved by the department, an agreement state, a licensing state, or the United States Nuclear Regulatory Commission. The wipe sample must be taken from the nearest accessible point to the sealed source where contamination might accumulate. The wipe sample must be analyzed for radioactive contamination. The analysis must be capable of detecting the presence of 185 Bq (0.005 microcurie) of radioactive material on the test sample and must be performed by a person approved by the department, an agreement state, a licensing state, or the United States Nuclear Regulatory Commission to perform the analysis.

(3) Test frequency.

(a) Each sealed source (except an energy compensation source (ECS)) must be tested at intervals not to exceed six months. In the absence of a certificate from a transferor that a test has been made within the six months before the transfer, the sealed source may not be used until tested.

(b) Each ECS that is not exempt from testing in accordance with subsection (5) of this section must be tested at intervals not to exceed three years. In the absence of a certificate from a transferor that a test has been made within the three years before the transfer, the ECS may not be used until tested.

(4) Removal of leaking source from service.

(a) If the test conducted under subsections (1) and (2) of this section reveals the presence of 185 Bq (0.005 microcurie) or more of removable radioactive material, the licensee shall remove the sealed source from service immediately and have it decontaminated, repaired, or disposed by a department, an agreement state, a licensing state, or a United States Nuclear Regulatory Commission licensee that is authorized to perform these functions. The licensee shall check the equipment associated with the leaking source for radioactive contamination and, if contaminated, have it decontaminated or disposed of by a department, an agreement state, a licensing state, or a United States Nuclear Regulatory Commission licensee that is authorized to perform these functions.

(b) The licensee shall submit a report to the department within five days of receiving the test results. The report must describe the equipment involved in the leak, the test results, any contamination that resulted from the leaking source, and the corrective actions taken up to the time the report is made.

(5) Exemptions from testing requirements. The following sealed sources are exempt from the periodic leak test

requirements set out in subsections (1) through (4) of this section:

(a) Hydrogen-3 (tritium) sources;

(b) Sources containing licensed material with a half-life of thirty days or less;

(c) Sealed sources containing licensed material in gaseous form;

(d) Sources of beta- or gamma-emitting radioactive material with an activity of 3.7 MBq (100 microcuries) or less; and

(e) Sources of alpha- or neutron-emitting radioactive material with an activity of 0.37 MBq (10 microcuries) or less.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-244-110 Design, performance, and certification criteria for sealed sources used in downhole operations. (1) Each sealed source, except those containing radioactive material in gaseous form, used in downhole operations shall be certified by the manufacturer, or other testing organization acceptable to the department, to meet the following minimum criteria:

(a) Be of doubly encapsulated construction;

(b) Contain radioactive material whose chemical and physical forms are as insoluble and nondispersible, respectively, as practical; and

(c) ~~((Has been individually pressure tested to at least 24,656 pounds per square inch absolute (170 MN/m²) without leakage or failure.))~~ Comply with subsection (2), (3), or (4) of this section.

(2) For a sealed source manufactured on or before July 14, 1989, a licensee may use the sealed source for use in well-logging applications if it meets the requirements of USASI N5.10-1968, "Classification of Sealed Radioactive Sources," or the requirements in subsection (3) or (4) of this section.

(3) For a sealed source manufactured after July 14, 1989, a licensee may use the sealed source for use in well-logging applications if it meets the oil-well logging requirements of ANSI/HPS N43.6-1997, "Sealed Radioactive Sources—Classification."

(4) For a sealed source manufactured after July 14, 1989, a licensee may use the sealed source for use in well-logging applications, if—

The sealed source's prototype has been tested and found to maintain its integrity after each of the following tests:

(a) Temperature. The test source must be held at -40°C for twenty minutes, 600°C for one hour, and then be subject to a thermal shock test with a temperature drop from 600°C to 20°C within fifteen seconds.

(b) Impact test. A 5 kg steel hammer, 2.5 cm in diameter, must be dropped from a height of 1 m onto the test source.

(c) Vibration test. The test source must be subject to a vibration from 25 Hz to 500 Hz at 5 g amplitude for thirty minutes.

(d) Puncture test. A 1 gram hammer and pin, 0.3 cm pin diameter, must be dropped from a height of 1 m onto the test source.

PROPOSED

(e) Pressure test. The test source must be subject to an external pressure of 1.695E7 pascals (24,600 pounds per square inch absolute).

(5) Except those containing radioactive material in gaseous form, in the absence of a certificate from a transferor certifying that an individual sealed source meets the requirements of subsection(s) (1) ~~((and (3)))~~ of this section, the sealed source shall not be put into use until ~~((such))~~ these determinations and testings have been performed and acceptable documented results obtained.

~~((3) Each sealed source, except those containing a radioactive material in gaseous form, used in downhole operations shall be certified by the manufacturer, or other testing organization acceptable to the department, to meet the sealed source performance requirements for oil well logging as contained in the January 1986 or most current American National Standard NS42, Sealed Radioactive Sources, Classification.~~

(4) ~~(6)~~ Certification documents shall be maintained for inspection by the department for a period of three years after source disposal. If a source is abandoned downhole, the certification documents shall be maintained until the department authorizes disposition.

(7) The requirements in this section do not apply to energy compensation sources (ECS). ECSs must be registered with the commission under Section 10 CFR 32.210 or with an agreement state.

NEW SECTION

WAC 246-244-115 Energy compensation sources and tritium neutron generator target sources. (1) The licensee may use an energy compensation source (ECS) which is contained within a logging tool, or other tool components, only if the ECS contains quantities of licensed material not exceeding 3.7 MBq (100 microcuries).

(a) For well-logging applications with a surface casing for protecting fresh water aquifers, use of the ECS is only subject to the requirements of WAC 246-244-080, 246-244-090 and 246-244-100.

(b) For well-logging applications without a surface casing for protecting fresh water aquifers, use of the ECS is only subject to the requirements of WAC 246-244-030, 246-244-080, 246-244-090, 246-244-100 and 246-244-240.

(2) Use of a tritium neutron generator target source, containing quantities not exceeding 1,110 MBq (30 curies) and in a well with a surface casing to protect fresh water aquifers, is subject to the requirements of this chapter except WAC 246-244-030, 246-244-110, and 246-244-240.

(3) Use of a tritium neutron generator target source, containing quantities exceeding 1,110 MBq (30 curies) or in a well without a surface casing to protect fresh water aquifers, is subject to the requirements of this chapter except WAC 246-244-110.

AMENDATORY SECTION (Amending Order 184, filed 7/24/91, effective 8/24/91)

WAC 246-244-160 Personnel monitoring. (1) The licensee may not permit an individual to act as a logging super-

visor or logging assistant unless that person wears, at all times during ~~((well-logging operations, either a film badge or thermoluminescent dosimeter (TLD)))~~ the handling of licensed radioactive materials, a personnel dosimeter that is processed by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor. Each ~~((film badge or TLD))~~ personnel dosimeter must be assigned to and worn by only one individual. The film badge must be exchanged and analyzed at least monthly and ~~((TLD badges))~~ other personnel dosimeters exchanged and analyzed at least every three months. The licensee shall have each ~~((badge or TLD))~~ personnel dosimeter processed in a timely fashion.

(2) The licensee shall provide appropriate bioassay services to individuals using licensed materials for subsurface tracer studies.

(3) The licensee shall keep reports received from the ~~((badge or TLD))~~ accredited NVLAP personnel dosimeter processor and from the bioassay service laboratory for inspection until the department authorizes disposition or terminates the license.

(4) Personnel monitoring devices and equipment shall monitor for beta, gamma, and neutron radiation as appropriate.

(5) Each licensee shall adhere to the requirements of the department's Regulatory Guide 8.20 *Bioassay Program Criteria for I-125 and I-131.*

AMENDATORY SECTION (Amending WSR 98-13-037, filed 6/8/98, effective 7/9/98)

WAC 246-244-240 Notification of incidents, abandonment, and lost sources. (1) Notification of incidents and sources lost in other than downhole logging operations shall be made in accordance with appropriate provisions of chapter 246-221 WAC.

(2) The licensee shall immediately notify the state of Washington division of radiation protection by telephone (206 682-5327) and subsequently within five days by confirmatory letter if:

(a) Licensed material has been lost in or near a fresh water aquifer; or

(b) A sealed source has been ruptured. This notice must designate the well or other location and describe the magnitude and extent of licensed materials, assess the consequences of the loss or rupture, and explain efforts planned or being taken to mitigate these consequences.

(3) Whenever a sealed source or device containing radioactive material is lodged downhole, the licensee shall:

(a) Monitor the surface for the presence of radioactive contamination with an appropriate radiation survey instrument (not the logging tool itself) during logging tool recovery operations; and

(b) Notify the department immediately by telephone (206-682-5327) if radioactive contamination is detected at the surface or if the source appears to be damaged.

(4) When it becomes apparent that efforts to recover the radioactive source will not be successful, the licensee shall:

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(a) Notify the department by telephone (206-682-5327) of the circumstances that resulted in the inability to retrieve the source and—

(i) Obtain department approval to implement abandonment procedures; or

(ii) That the licensee implemented abandonment before receiving department approval because the licensee believed there was an immediate threat to public health and safety; and

(b) Advise the well operator or owner, as appropriate, of the regulations of the state of Washington regarding abandonment, and an appropriate method of abandonment. The licensee shall ensure that such abandonment procedures are implemented within thirty days after the sealed source has been classified as irretrievable. (Such abandonment procedures shall include:

(i) Immobilization and sealing in place of the radioactive source with a cement plug;

(ii) The setting of a whipstock or deflection device; and

(iii) The mounting of a permanent identification plaque at the surface of the well, containing the appropriate information required by subsection (5) of this section;

(b) Immediately notify the department by telephone (206 682-5327), giving the circumstances of the loss, and request and receive approval of the proposed)) or request an extension of time if unable to complete the abandonment procedures; and

(c) File a written report with the department within thirty days of the abandonment, including a copy to each appropriate state or federal agency that issued permits or otherwise approved of the drilling operation, setting forth the following information:

(i) Date and time of occurrence and a brief description of attempts to recover the source;

(ii) A description of the radioactive source(s) involved, including radionuclide, quantity, make, model and serial number, and chemical and physical form;

(iii) Surface location and identification of well;

(iv) Results of efforts to immobilize and seal the source in place;

(v) Depth of the radioactive source in meters or feet;

(vi) Depth to the top of cement plug in meters or feet;

(vii) Depth of the well in meters or feet; (and))

(viii) ((Information contained on the permanent identification plaque)) The immediate threat to public health and safety justification for implementing abandonment if prior departmental approval was not obtained in accordance with subsection (4) of this section;

(ix) Any other information, such as a warning statement, contained on the permanent identification plaque; and

(x) State and federal agencies receiving a copy of this report.

((5) Whenever a sealed source containing radioactive material is not recovered and is abandoned downhole, the licensee shall provide a permanent plaque at least eighteen centimeters square for posting the well or well bore (see Appendix A). This plaque shall:

(a) Be constructed of long-lasting material, such as stainless steel or monel; and

(b) Contain the following information permanently and conspicuously engraved on its face:

(i) The word "caution (or danger)";

(ii) The radiation symbol(s) with or without the conventional color requirement;

(iii) The date of abandonment (month/day/year);

(iv) The name of the well operator or well owner;

(v) The well name and well identification number(s) or other designation;

(vi) The sealed source(s) by radionuclide and quantity of activity (if more than one source is involved, information for each source shall be included);

(vii) The source depth and the depth to the top of the plug in meters or feet; and

(viii) An appropriate warning, depending on the specific circumstances of each abandonment.

(6) The department may, at its own discretion, impose such other requirements as it may deem necessary.

† An example of a suggested plaque is shown in Appendix A of this section. Appropriate warnings may include:

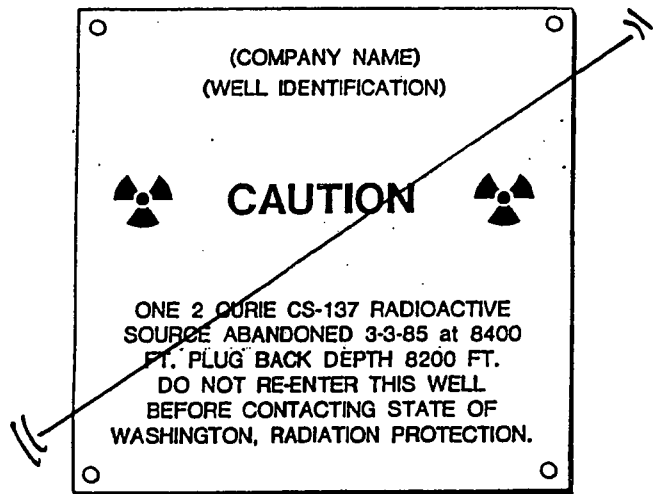
(a) "Do not drill below plug back depth";

(b) "Do not enlarge casing"; and/or

(c) "Do not reenter the hole before contacting the state of Washington division of radiation protection."

appendix a

Example of Plaque for Identifying Wells Containing Sealed Sources Containing Radioactive Material Abandoned Downhole



The size of the plaque should be convenient for use on active or inactive wells, and shall be at least eighteen centimeters square. Letter size of the word "caution" or "danger" shall be approximately twice the letter size of the rest of the information, e.g., one half inch and one fourth inch letter size, respectively.)

WSR 03-07-097
PROPOSED RULES
DEPARTMENT OF LICENSING

[Filed March 19, 2003, 10:32 a.m.]

Original Notice.

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

Title of Rule: Commercial motor vehicle instruction permit requirements and commercial driver's license third-party test fee.

Purpose: Amends WAC 308-100-090 to clarify requirements for applicants and holders of commercial motor vehicle (CMV) instruction permits. Amends WAC 308-100-180 to adjust the maximum amount that a third-party tester can charge for conducting commercial driver's license examinations.

Statutory Authority for Adoption: RCW 46.01.110, 46.25.060, 46.25.140.

Statute Being Implemented: Chapter 46.25 RCW.

Summary: WAC 308-100-090 is amended to delete outdated requirements pertaining to motorcycle instruction permits, and to clarify requirements for CMV instruction permits. Applicants must be eighteen years of age, and must be accompanied by the holder of a commercial driver's license with appropriate driving experience. WAC 308-100-180 is being amended to adjust the maximum amount of the commercial driver's license examination fee charged by third-party testers to \$75.

Reasons Supporting Proposal: Specifications for CMV instruction permits are being aligned with national standards and to incorporate requirements for instruction permits issued for operation of passenger vehicles. The maximum amount for the third-party test fee is being adjusted based on results of a survey of third-party testers and in consideration of fees charged in other states.

Name of Agency Personnel Responsible for Drafting: Clark J. Holloway, Highways-Licenses Building, (360) 902-3846; Implementation and Enforcement: Denise Movius, Highways-Licenses Building, (360) 902-3850.

Name of Proponent: Department of Licensing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: No new rules are being proposed.

Proposal Changes the Following Existing Rules: WAC 308-100-090 is amended to delete outdated requirements pertaining to motorcycle instruction permits, and to clarify requirements for CMV instruction permits. Applicants must be eighteen years of age, and must be accompanied by the holder of a commercial driver's license with appropriate driving experience.

WAC 308-100-180 is being amended to adjust the maximum amount of the commercial driver's license examination fee charged by third-party testers to \$75.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.025(3).

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Highways-Licenses Building, Conference Room 413, 1125 Washington Street S.E., Olympia, WA, on April 24, 2003, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Clark J. Holloway by April 23, 2003, TTY (360) 664-0116.

Submit Written Comments to: Clark J. Holloway, Department of Licensing, P.O. Box 9030, Olympia, WA 98507-9030, fax (360) 586-8351, by April 23, 2003.

Date of Intended Adoption: April 25, 2003.

March 19, 2003

Denise M. Movius

Assistant Director

AMENDATORY SECTION (Amending Order 108 MV, filed 9/14/71)

WAC 308-100-090 Commercial motor vehicle instruction permits~~((—Motorcycles. Any licensed driver may, upon filing an appropriate application along with the required fee, receive a motorcycle instruction permit. Such instruction permit shall entitle the holder thereof to operate a motorcycle upon the public highways only under the direct visual supervision of a person who has a motorcycle endorsement upon his license. In no event shall such instruction permit be construed to authorize any person other than the permit holder to ride upon a motorcycle while it is being operated under an instruction permit.))~~ Any person who is at least eighteen years of age and who meets the requirements of RCW 46.25.060(4) may apply to the department for an instruction permit for the operation of a commercial motor vehicle. When operating a commercial motor vehicle on a highway, the instruction permit holder must be accompanied by the holder of a commercial driver's license valid for the vehicle being driven, with no less than two years of driving experience with the class of commercial motor vehicle being operated, and no less than five years of total driving experience. The holder of the commercial driver's license must occupy the seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle.

AMENDATORY SECTION (Amending [WSR 89-18-003], filed 8/24/89)

WAC 308-100-180 Third party testing fee. Except as provided in WAC 308-100-190 (Requirements for exceeding base fee), the base fee for each classified skill examination or combination of skill examinations conducted by a third party tester shall not be more than ~~((fifty))~~ seventy-five dollars. The base fee shall apply only to the conducting of the examination, and is separate from any additional fees, such as vehicle use fees, which may be charged by the third party tester. Any additional fees to be charged shall be reported to the department.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

WSR 03-07-037
EXPEDITED RULES
DEPARTMENT OF AGRICULTURE

[Filed March 13, 2003, 12:41 p.m.]

Title of Rule: WAC 16-231-107 Application of pesticides in Franklin County—Restricted use pesticides.

Purpose: To correct typographical errors in WAC 16-231-107, Areas 2B, 4 and 6 should be 2A, 4A and 6.

Statutory Authority for Adoption: Chapters 17.21, 15.58, and 34.05 RCW.

Statute Being Implemented: Chapters 17.21 and 15.58 RCW.

Summary: The Washington State Department of Agriculture, based upon authority granted in RCW 34.05.353 (1)(c), is using the expedited adoption process to correct typographical errors in WAC 16-231-107.

Reasons Supporting Proposal: The proposed amendments are necessary to correct typographical errors in WAC 16-231-107 to insure correct compliance and proper enforcement.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Cliff Weed, 1111 Washington Street, Olympia, WA, (360) 902-2036.

Name of Proponent: Washington State Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed amendments are necessary to correct typographical errors in WAC 16-231-107 to insure correct compliance and proper enforcement.

Proposal Changes the Following Existing Rules: The proposed amendments correct typographical errors in WAC 16-231-107, Areas 2B, 4, and 6, should be 2A, 4A, and 6.

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 Laurie Mauerman, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504, e-mail lmauerman@agr.wa.gov, fax (360) 902-2093, AND RECEIVED BY May 19, 2003.

March 7, 2003

Bob Arrington

Assistant Director

AMENDATORY SECTION (Amending WSR 00-24-002, filed 11/22/00, effective 12/23/00)

WAC 16-231-107 Application of pesticides in Franklin County—Restricted use pesticides. The following pesti-

cides are declared to be restricted use pesticides in Areas 2((B))A, 4A, and 6:

(1) Restricted use herbicides:

(a) Sulfonylurea herbicides (such as Glean, Telar, Finesse, Escort);

(b) Desiccants and defoliants (such as Paraquat, Diquat, Endothall);

(c) Glyphosate (such as Roundup, Landmaster);

(d) Phenoxy type herbicides (such as 2,4-D, MCPA);

(e) Dicamba (such as Banvel);

(f) Bromoxynil (such as Brominal, Buctril, Bronate).

(2) Restricted use insecticides:

All Category I insecticides with the signal words danger/poison on the label, except granular and pellet formulations.

WSR 03-07-083

EXPEDITED RULES

OFFICE OF

FINANCIAL MANAGEMENT

[Filed March 18, 2003, 3:17 p.m.]

Title of Rule: WAC 82-50-021 Official state lagged semi-monthly pay dates established.

Purpose: To establish official pay dates for state officers and employees for calendar year 2004.

Statutory Authority for Adoption: RCW 42.16.010(1) and 42.16.017.

Statute Being Implemented: RCW 42.16.010(1) and 42.16.017.

Summary: This proposed rule making amends WAC 82-50-021 by establishing pay dates for state officers and employees for calendar year 2004 and removing now obsolete pay dates for calendar year 2002.

Reasons Supporting Proposal: The statute requires that the Office of Financial Management annually update and publish state pay dates.

Name of Agency Personnel Responsible for Drafting: Millie Lund, 6639 Capitol Boulevard, Tumwater, (360) 664-7678; Implementation and Enforcement: Wendy Jarrett, 6639 Capitol Boulevard, Tumwater, (360) 664-7675.

Name of Proponent: Office of Financial Management, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 82-50-021 exists to publish the official lagged, semi-monthly pay dates for state officers and employees. This section of WAC, which provides pay dates for the current and ensuing calendar years, is amended each year to add pay dates for the ensuing year and delete the obsolete pay dates for the previous year.

Proposal Changes the Following Existing Rules: Official lagged, semi-monthly pay dates for calendar year 2004 are added and the now obsolete pay dates for calendar year 2002 are deleted.

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 Jennifer Strus, Office of Financial Management, P.O. Box 43113, Olympia, WA 98504-3113, AND RECEIVED BY May 19, 2003.

March 18, 2003
Jennifer Strus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 02-13-087, filed 6/18/02, effective 7/19/02)

WAC 82-50-021 Official lagged, semimonthly pay dates established. Unless exempted otherwise under the provisions of WAC 82-50-031, the salaries of all state officers and employees are paid on a lagged, semimonthly basis for the official twice-a-month pay periods established in RCW 42.16.010(1). The following are the official lagged, semimonthly pay dates for calendar years (~~2002 and~~) 2003 and 2004:

~~((CALENDAR YEAR 2002~~
~~Thursday, January 10, 2002~~
~~Friday, January 25, 2002~~
~~Monday, February 11, 2002~~
~~Monday, February 25, 2002~~
~~Monday, March 11, 2002~~
~~Monday, March 25, 2002~~
~~Wednesday, April 10, 2002~~
~~Thursday, April 25, 2002~~
~~Friday, May 10, 2002~~
~~Friday, May 24, 2002~~
~~Monday, June 10, 2002~~
~~Tuesday, June 25, 2002~~
~~Wednesday, July 10, 2002~~
~~Thursday, July 25, 2002~~
~~Friday, August 9, 2002~~
~~Monday, August 26, 2002~~
~~Tuesday, September 10, 2002~~
~~Wednesday, September 25, 2002~~
~~Thursday, October 10, 2002~~
~~Friday, October 25, 2002~~
~~Friday, November 8, 2002~~
~~Monday, November 25, 2002~~
~~Tuesday, December 10, 2002~~
~~Tuesday, December 24, 2002~~

CALENDAR YEAR 2003
Friday, January 10, 2003
Friday, January 24, 2003
Monday, February 10, 2003
Tuesday, February 25, 2003
Monday, March 10, 2003
Tuesday, March 25, 2003
Thursday, April 10, 2003
Friday, April 25, 2003
Friday, May 9, 2003
Friday, May 23, 2003
Tuesday, June 10, 2003
Wednesday, June 25, 2003
Thursday, July 10, 2003
Friday, July 25, 2003
Monday, August 11, 2003
Monday, August 25, 2003
Wednesday, September 10, 2003
Thursday, September 25, 2003
Friday, October 10, 2003
Friday, October 24, 2003
Monday, November 10, 2003
Tuesday, November 25, 2003
Wednesday, December 10, 2003
Wednesday, December 24, 2003))

CALENDAR YEAR 2003
Friday, January 10, 2003
Friday, January 24, 2003
Monday, February 10, 2003

CALENDAR YEAR 2004
Friday, January 9, 2004
Monday, January 26, 2004
Tuesday, February 10, 2004

CALENDAR YEAR 2003
Tuesday, February 25, 2003
Monday, March 10, 2003
Tuesday, March 25, 2003
Thursday, April 10, 2003
Friday, April 25, 2003
Friday, May 9, 2003
Friday, May 23, 2003
Tuesday, June 10, 2003
Wednesday, June 25, 2003
Thursday, July 10, 2003
Friday, July 25, 2003
Monday, August 11, 2003
Monday, August 25, 2003
Wednesday, September 10, 2003
Thursday, September 25, 2003
Friday, October 10, 2003
Friday, October 24, 2003
Monday, November 10, 2003
Tuesday, November 25, 2003
Wednesday, December 10, 2003
Wednesday, December 24, 2003

CALENDAR YEAR 2004
Wednesday, February 25, 2004
Wednesday, March 10, 2004
Thursday, March 25, 2004
Friday, April 9, 2004
Monday, April 26, 2004
Monday, May 10, 2004
Tuesday, May 25, 2004
Thursday, June 10, 2004
Friday, June 25, 2004
Friday, July 9, 2004
Monday, July 26, 2004
Tuesday, August 10, 2004
Wednesday, August 25, 2004
Friday, September 10, 2004
Friday, September 24, 2004
Friday, October 8, 2004
Monday, October 25, 2004
Wednesday, November 10, 2004
Wednesday, November 24, 2004
Friday, December 10, 2004
Thursday, December 23, 2004

EXPEDITED

WSR 03-07-006
PERMANENT RULES
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2002-04—Filed March 6, 2003,
 4:29 p.m.]

Date of Adoption: March 5, 2003.

Purpose: The new rule implements RCW 48.43.023. This new regulation will also create consistent standards that will improve care to patients by minimizing confusion, eliminating unnecessary paperwork, decreasing administrative burdens, and streamlining dispensing of prescription products paid for by third-party payors.

Statutory Authority for Adoption: RCW 48.02.060, 48.43.023, 48.44.050, 48.46.200.

Adopted under notice filed as WSR 02-23-092 on November 20, 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 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

March 5, 2003

Mike Kreidler

Insurance Commissioner

SUBCHAPTER C
PROVIDER ((AND FACILITY))
CONTRACTS AND PAYMENT

NEW SECTION

WAC 284-43-323 Pharmacy identification cards. (1) This rule outlines the minimum standards for prescription claims processing as directed by RCW 48.43.023.

(2) The pharmacy identification card or other technology must include the data element consistent with the "BIN number," "IIN/BIN number" or "RxBIN" which is the ANSI assigned international identification number, identified in the *National Council for Prescription Drug Programs (NCPDP) Pharmacy ID Card Implementation Guide*. Other data elements of the *NCPDP Guide* must be included on the card only if they are required for the processing of claims.

(3) This rule does not compel the issuance of a separate pharmacy identification card provided that the enrollee health plan identification card contains the required data elements.

(4) All plans that use a card or other technology for prescription claims processing that are delivered, issued for delivery or renewed on or after July 1, 2003, must comply with the requirements of this rule.

WSR 03-07-007
PERMANENT RULES
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2001-15—Filed March 6, 2003,
 4:31 p.m.]

Date of Adoption: March 5, 2003.

Purpose: RCW 48.41.040 requires the commissioner to adopt WSHIP's plan of operation by rule. The board of WSHIP recently revised their plan of operation to reflect recent changes in law. The new law changed the composition of the board and many of the operating procedures. These rules repeal sections in chapter 284-91 WAC that are redundant to conflict with the new law.

Citation of Existing Rules Affected by this Order: Repealing WAC 284-91-010, 284-91-020, 284-91-025, 284-91-027, 284-91-030, 284-91-040, 284-91-050, and 284-91-060.

Statutory Authority for Adoption: RCW 48.02.060, 48.41.040, 48.41.170, 48.44.050, and 48.46.020.

Adopted under notice filed as WSR 02-23-091 on November 20, 2002.

Changes Other than Editing from Proposed to Adopted Version: The rule is amended to reflect that the commissioner did not approve of Article VIII of the Articles of Incorporation. The commissioner has informed the WSHIP board that he is willing to revisit that subject 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 8.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 8.

Effective Date of Rule: Thirty-one days after filing.

March 5, 2003

Mike Kreidler

Insurance Commissioner

Chapter 284-91 WAC

WASHINGTON STATE HEALTH INSURANCE ((ACCESS REGULATION)) POOL

NEW SECTION

WAC 284-91-001 Plan of operation approved. Under RCW 48.41.040(4), the commissioner approves the plan of operation submitted by the board of directors of the Washington state health insurance pool (WSHIP). The plan of operation is composed of the following documents:

- (1) Articles of organization approved by the WSHIP board on September 5, 2002, and amended by the insurance commissioner on March 4, 2003;
(2) Bylaws approved by the WSHIP board on September 5, 2002; and
(3) Operating rules approved by the WSHIP board on September 5, 2002.

REPEALER

The following sections of the Washington Administrative Code are repealed:

Table with 2 columns: WAC ID and Description. Rows include WAC 284-91-010 (Board of directors), WAC 284-91-020 (Organizational meeting, duties of board of directors), WAC 284-91-025 (Plan of operation approved), WAC 284-91-027 (Plan of operation), WAC 284-91-030 (Duties of administrator), WAC 284-91-040 (Forms to be used by administrator), WAC 284-91-050 (Involuntary terminations for other than nonpayment of premiums), and WAC 284-91-060 (Eligibility in counties without commercially available coverage equivalent to pool coverage).

WSR 03-07-035 PERMANENT RULES DEPARTMENT OF COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT [Filed March 13, 2003, 9:56 a.m.]

Date of Adoption: February 7, 2003.

Purpose: Rules clarify application and recertification processes and fees, define criteria for continuing education and for approving alternative education providers, clarify requirements of chapter 43.63B RCW for homeowners performing work on their own homes, and identify responsibilities of installer to homeowner. Rules also establish a system for monitoring installations and increasing compliance with

certification requirements through a serialized installer tag program.

Citation of Existing Rules Affected by this Order: Amending WAC 365-210-030 and 365-210-060.

Statutory Authority for Adoption: RCW 43.63B.005, [43.63B.]020, [43.63B.]040, [43.63B.]060, [43.63B.]035, [43.63B.]090, [43.63B.]800, 43.330.040.

Adopted under notice filed as WSR 02-24-009 on November 22, 2002.

Changes Other than Editing from Proposed to Adopted Version: WAC 365-210-140, 365-210-160, and 365-210-170 added an effective date of July 1, 2003.

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 6, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 8, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing. March 11, 2003 Sung Yang Deputy Director

AMENDATORY SECTION (Amending WSR 95-14-121, filed 6/30/95, effective 7/1/95)

WAC 365-210-030 Definitions. The following definitions shall apply to this chapter and to chapter 43.63B RCW:

- (1) "Extension of the pressure relief valve for the water heater" means extension to the outside of the home as described in the Uniform Plumbing Code.
(2) "Manufactured home," in addition to the definition provided in RCW 43.63B.010(5) means mobile home as defined in RCW 43.63B.010(8).
(3) "Mobile or manufactured home installation" does not include installation of electrical wires and equipment that convey electrical power to the home or to an outlet in the home, and does not include the ground crossover. Installation of electrical wires and equipment that convey electrical power to the home or to an outlet in the home must be performed by a journeyman or specialty electrician as defined in chapter 19.28 RCW. Equipment does not include plug-in household appliances.
(4) "Other equivalent experience" means six months of hands-on experience installing manufactured homes under the guidance of a reputable, recognized manufactured home installer; or two years experience in residential construction.
(5) "Site" means the parcel of land designed to accommodate the dwelling and auxiliary structures.

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(6) "May not," for the purposes of this chapter and as used in chapter 43.63B RCW, when used in reference to a particular act or action means the act or action is not allowed or not permitted.

(7) "Department" means the department of community, trade, and economic development.

AMENDATORY SECTION (Amending WSR 95-14-121, filed 6/30/95, effective 7/1/95)

WAC 365-210-060 ((Fees.)) Application process. (((+)) First-time applicants must attend the training course and take the examination. Persons failing the exam on the first try may retake it one time at no cost, but must pay \$50 for each subsequent attempt. Certificate holders seeking to renew need only pay for and pass the most recent examination. For a timely renewal, certificate holders must have passed the examination prior to the expiration of their current certificates. Certificate holders seeking to renew may, at their option, attend the training course and/or purchase a copy of the most recent training manual.

~~(2) The fee for the training program, including the cost of one copy of the training manual, shall be \$100.00. The cost for the examination and certification shall be \$100.00. The fee for renewal of the certificate after three years, including retaking the examination, shall be \$100.~~

~~(3) An applicant whose application is found to be ineligible or inadequate shall be entitled to a full refund, and shall be notified by the department of such ineligibility or inadequacy at least 20 days prior to the examination. If a late application is received and found to be inadequate, the department shall make its best effort to notify the applicant prior to the examination.~~

~~(4) An applicant who fails the examination shall not be entitled to a refund.~~

~~(5) Individuals will be allowed to audit the training program and not take the examination. The audit fee shall be \$100.00~~

~~(6) The department shall make extra copies of the training manual available on request for a fee designed to cover costs.~~

~~(7) Fees due at the time of certification must be paid in full in order for the department to issue the certificate.)) A person desiring to be certified as a manufactured home installer under RCW 43.63B.020 must first file with the department an application on a form prescribed by the department.~~

(1) The application must be accompanied by the application fee specified in WAC 365-210-063.

(2) The application must be completed in full and must be signed by the person applying for certification.

(3) The application must contain the full name and Social Security number of the person applying for certification. Social Security numbers are required on applications for professional licenses pursuant to RCW 26.23.150 and federal law PL 104-193, The Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(4) Any application received after the class cut-off date is subject to the late application fee specified in WAC 365-210-063. An application will be accepted at any scheduled

training or certification exam provided classroom space is available and the application is accompanied by the application fee and late application fee specified in WAC 365-210-063.

(5) If the application is denied by the department as a result of the applicant's failure to meet the requirements of chapter 43.63B RCW and this chapter, the department will attempt to notify the applicant prior to the date the applicant is scheduled to attend the training and examination.

NEW SECTION

WAC 365-210-061 Manufactured home installer—Continuing education requirements. Certified manufactured home installers must complete a minimum of four credit hours of continuing education every three years. The continuing education credit hours may be satisfied by attending classes offered by the department or classes offered by an alternative education provider approved by the department pursuant to WAC 365-210-180. All fees required by WAC 365-210-063 for continuing education classes must be paid to the department in advance.

(1) The department will offer continuing education classes every three years beginning January 2004.

Example: Continuing education classes will be offered in the years 2004, 2007, 2010, 2013, etc.

(2) Continuing education class curriculum will include statute, code, or rule changes and common installation problems.

(3) If a certified installer is unable to attend the continuing education classes offered by the department or alternative education provider, the installer may attend a regularly scheduled installer certification training course.

NEW SECTION

WAC 365-210-062 Manufactured home installer recertification—Application process. A certified manufactured home installer desiring to be recertified as a manufactured home installer under RCW 43.63B.040 must first file with the department a recertification application on a form prescribed by the department.

(1) The recertification application must be hand-delivered to the department or postmarked no later than midnight on the date of expiration of an installer's current certification.

(2) The recertification application must be accompanied by the recertification fee specified in WAC 365-210-063.

(3) If a certified installer fails to apply for recertification prior to the expiration of the installer's current certification, the installer must reapply for installer certification and meet all requirements for installer certification as set forth in chapter 43.63B RCW and this chapter.

(4) Before a new certification is issued, the certified installer must provide proof to the department that the certified installer has met the continuing education requirements set forth in this chapter.

(5) The department will attempt to notify installers prior to expiration; however, it is the installer's responsibility to ensure timely recertification.

NEW SECTION

WAC 365-210-063 Fees—Refunds. The following fees are payable to the department in advance:

Training and certification	\$200.00
Training only	\$100.00
Late application	\$20.00
Recertification	\$100.00
Continuing education class	\$40.00

Retake failed examination and training:

First retake	\$0.00
Subsequent retakes	\$30.00
Manufactured home installer certification manual	\$10.00
Installer certification tag	\$7.00

(1) The department shall refund fees paid for training and certification or recertification as a manufactured home installer if the application is denied for failure of the applicant to comply with the requirements of chapter 43.63B RCW or these rules.

(2) If an applicant has paid fees to attend training or to take an examination and is unable to attend the scheduled training or examination, the applicant may:

- (a) Change to another scheduled training and examination; or
 - (b) Request a refund.
- (3) An applicant who fails the examination shall not be entitled to a refund.

NEW SECTION

WAC 365-210-090 Requirement for applicable licenses and registrations. The issuance of a certificate of manufactured home installation by the department under chapter 43.63B RCW and these rules does not exempt the certified installer from compliance with any local, state, or federal requirements relative to any business or occupational licenses or registrations.

NEW SECTION

WAC 365-210-100 Manufactured home on-site work and equipment installation—Manufactured home installer certification required. On-site work or equipment installation work which falls within the scope of installation as set forth in RCW 43.63B.010(6) may not be performed on a manufactured home at any time after the initial installation of a manufactured home without the supervision of a certified manufactured home installer.

On-site work and equipment installation work may not be performed until a permit for such work has been issued by the local enforcement agency. On-site work and equipment installation work must be inspected upon completion by the local enforcement agency in the same manner initial home installations are inspected.

On-site work and equipment installation work include, but are not limited to:

- (1) Releveling a home such as installing all new pier blocks or footings;
- (2) Complete skirting replacement;
- (3) Installing earthquake resistant bracing systems; and
- (4) Any other work described in RCW 43.63B.010(6).

On-site work and equipment installation work does not include routine maintenance or other routine repairs such as periodic adjustments to piers, replacement of a damaged pier, or skirting repair.

NEW SECTION

WAC 365-210-110 Manufactured home installation, on-site work or equipment installation—Homeowner performing work on their own home—Exceptions. (1) The owner of a mobile or manufactured home may install or perform on-site work or equipment installation work on his or her own home without obtaining certification from the department as a certified manufactured home installer if the home is intended for use as the homeowner's primary residence.

(2) The installation, on-site work or equipment installation work must be performed in compliance with chapter 296-150M WAC, Washington installation code.

(3) If the owner of a manufactured home hires any individual or business to assist the owner in the installation, on-site work or equipment installation work, a certified installer is required to be on-site supervising such work and must meet all the requirements of this chapter.

(4) For the purposes of this chapter, an "owner" of a manufactured home does not include a manufactured home dealer, distributor, park owner or manager, or developer who installs or performs on-site work or equipment installation work on a manufactured home intended for resale or rental.

NEW SECTION

WAC 365-210-120 Manufactured home installation permit and inspections—Obligation of certified installer. If a certified installer obtains the manufactured home installation or placement permit from the local enforcement agency, the certified installer shall ensure that all required installation inspections, relative to the work performed by the certified installer, are completed.

NEW SECTION

WAC 365-210-130 Manufactured home installer—Responsibilities to the consumer. A certified manufactured home installer shall:

- (1) Ensure all phases of the installation work performed by the installer or crew being supervised are complete and in compliance with chapter 296-150M WAC, Washington installation code;
- (2) Notify the local enforcement agency upon completion of the installation work; and
- (3) Correct all nonconforming aspects of the installation identified by the local enforcement agency or by an autho-

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rized representative of the department within thirty days of issuance of notice of the same.

NEW SECTION

WAC 365-210-140 Manufactured home installation—Installer certification tags required. (Effective July 1, 2003.) Prior to installing, performing on-site work or equipment installation work on a manufactured home, certified manufactured home installers or the retailers by whom they are employed shall obtain an "installer certification tag" from the department or from the local enforcement agency who participates in tag sales. The installer certification tag shall be in the form approved by the department. No manufactured home may be installed by a certified installer without an installer certification tag affixed thereto. Only currently certified manufactured home installers shall be issued installer certification tags.

Homeowners performing the installation, on-site work or equipment installation work on their own manufactured home are not required to acquire and affix an installer certification tag.

(1) Installer certification tags may only be purchased by a certified manufactured home installer or by a manufactured home retailer licensed by Washington state department of licensing.

(a) The certified manufactured home installer or manufactured home retailer purchasing the installer certification tag is responsible for complying with the security, use, and reporting requirements of this chapter.

(b) Manufactured home retailers may purchase installer certification tags in bulk and issue them to certified manufactured home installers employed by the manufactured home retailer.

(2) In order to purchase installer certification tags, the certified manufactured home installer or manufactured home retailer shall submit an application to the department or local enforcement agency on a form approved by the department. The application shall be accompanied by the appropriate installer certification tag fee as set forth in WAC 365-210-063.

(3) The department or manufactured home retailer may issue a maximum of thirty certification tags to a certified manufactured home installer. A certified manufactured home installer may not have more than thirty installer certification tags issued at any one time for which the reporting requirements of this section have not been met.

(4) Installer certification tags shall not be transferred or assigned without the written approval of the department. Fees paid for installer certification tags are not refundable.

(a) If a certified manufactured home installer's certification is suspended, revoked, or expires, all unused installer certification tags assigned to the certified manufactured home installer shall be returned to the department.

(b) If a certified manufactured home installer or manufactured home retailer ceases to do business, all unused installer certification tags shall be returned to the department.

(c) If a manufactured home retailer changes ownership, unused installer certification tags may be transferred to the new ownership if the department approves the transfer fol-

lowing receipt of a written request for transfer from the manufactured home retailer.

(5) Issuance of installer certification tags may be denied if:

(a) The certified manufactured home installer's certification has been revoked or suspended pursuant to chapter 43.63B RCW;

(b) The certified manufactured home installer has failed to comply with the reporting requirements of this chapter;

(c) The department has evidence that the certified manufactured home installer has misused the installer certification tag by not complying with the requirements of this chapter; or

(d) The certified manufactured home installer possesses installer certification tags in excess of the quantity authorized by subsection (3) of this section for which the reporting requirements of this chapter have not been met.

NEW SECTION

WAC 365-210-150 Installer certification tag—Issuance by local enforcement agency. A local enforcement agency may issue installer certification tags to certified manufactured home installer if:

(1) The local enforcement agency has entered into an agreement with the department to issue installer certification tags on a "per installation" basis; and

(2) The local enforcement agency has verified that the certified installer is qualified to purchase an installer certification tag under the requirements of this chapter; and

(3) The local enforcement agency shall file with the department a monthly report complying with the requirements of WAC 365-210-170.

NEW SECTION

WAC 365-210-160 Installer certification tag—Placement—Removal. (Effective July 1, 2003.) (1) The installer certification tag shall be placed on the home upon completion of the installation and prior to inspection by the local enforcement agency.

(2) The installer certification tags must be placed on the end of a home section directly above or below the HUD certification tag or temporarily located in plain sight within three feet of the home's front entry.

(3) The local enforcement agency may not issue final approval of a home installation until one or more installer certification tags have been affixed to the home indicating all installation work was performed by a certified manufactured home installer.

Exception: Installation work performed by a homeowner on his or her own residence does not require an installer certification tag.

(4) The installer certification tag shall be removed only by the owner of the home following final approval of the installation of the home by the local enforcement agency.

NEW SECTION

WAC 365-210-170 Monthly certification tag report. (Effective July 1, 2003.) Certified manufactured home

installers and manufactured home retailers who purchase installer certification tags from the department shall submit a monthly report to the department on a form approved by the department relative to all installer certification tags issued.

(1) The report is due no later than the 15th day of each month following the month of installation work being performed on a home. A certification tag report is not required for those months in which no installation work was performed.

(2) A manufactured home retailer who assigns tags to a certified manufactured home installer is responsible for ensuring completion of the monthly report. The manufactured home retailer shall file a separate report for each certified manufactured home installer to which the manufactured home retailer assigned installer certification tag(s).

(3) The installer certification tag report shall contain the following information for each installation:

- (a) The installer certification tag number;
- (b) The address of the installation;
- (c) The date of the installation;
- (d) The name and certification number of the certified manufactured home installer; and
- (e) Any other information required by the department.

NEW SECTION

WAC 365-210-180 Alternative education providers—Approval process and compliance. Pursuant to RCW 43.63B.035, the department may approve education providers to offer the certification training and/or continuing education required by RCW 43.63B.030, 43.63B.040 and this chapter. In order to be approved, an education provider must comply with the following requirements:

(1) The education provider must submit to the department a written proposal including the following:

- (a) The education and experience of proposed instructors;
- (b) A detailed description of course content and materials; and
- (c) The proposed course schedule.

(2) All instructors identified by the education providers must meet the following requirements:

- (a) Two years' experience in one or more of the following areas:
 - (i) Supervising manufactured home installation, service, or repair;
 - (ii) Design, engineering, or architectural work related to building construction;
 - (iii) Inspecting manufactured home installation or construction for a local, state, or federal agency;
 - (iv) Completion of a two-year educational program in a construction-related field; or

(v) A combination of any of the above to meet the two-year requirement; and

(b) Complete the department-sponsored training and pass the certification exam with a score of ninety percent or higher.

(3) The curriculum proposed by the education provider must meet or exceed the department-sponsored training curriculum.

(4) The department shall provide the education service provider written notice of approval or rejection as an alternative education service provider within sixty days of submittal of the complete proposal.

(5) All approved alternative education providers shall:

(a) Make all necessary arrangements (scheduling class dates/times and facilities) and provide all educational materials for the classes presented;

(b) Provide to the department a list of participants within ten days of each class;

(c) Provide to the participant a certificate of completion. Each certificate shall indicate:

(i) The name of participant;

(ii) The date of training;

(iii) A statement indicating the participant has completed the training as required by chapter 43.63B RCW.

(6) The alternative education provider shall notify the department in writing fourteen days prior to the scheduled class date of the date, time and location of each class. Department representatives shall be permitted to audit any class without fee.

(7) Curriculum changes must be submitted to and approved by the department prior to implementation.

NEW SECTION

WAC 365-210-190 Legal action—Installer certification required. No person may file a lien against a homeowner, or bring or maintain in any court of this state a suit or action, that seeks compensation for the performance of any work requiring certification under chapter 43.63B RCW or for the breach of any contract for installation work which is subject to chapter 43.63B RCW unless:

(1) The manufactured home installer was certified under chapter 43.63B RCW at the time the installer entered into contract for performance of the work and was certified continuously while performing the work for which compensation is sought; or

(2) The supervising manufactured home installer was the employee of the contractor or retailer seeking compensation and was certified under chapter 43.63B RCW continuously during performance of the work for which compensation is sought.

WSR 03-07-036

PERMANENT RULES

**DEPARTMENT OF COMMUNITY,
TRADE AND ECONOMIC DEVELOPMENT**

[Filed March 13, 2003, 9:58 a.m.]

Date of Adoption: February 7, 2003.

Purpose: Rules implement 2002 legislative changes to chapter 59.21 RCW that establish allowable expenses for mobile home relocation reimbursement, change the criteria for eligibility, establish criteria for a home that is "not relocatable," and identify priority distribution for residents of parks closed due to "park owner fraud" or "health and safety concerns."

Statutory Authority for Adoption: Chapter 59.21 RCW, RCW 43.330.040.

Adopted under notice filed as WSR 02-24-008 on November 22, 2002.

Changes Other than Editing from Proposed to Adopted Version: WAC 365-212-040(2), the language "A detailed statement from a Washington state certified installer describing why the home cannot be relocated" was removed.

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 9, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

March 11, 2003

Sung Yang

Deputy Director

NEW SECTION

WAC 365-212-010 What definitions apply to this chapter? (1) "**Department**" means the department of community, trade and economic development.

(2) "**Office of manufactured housing**" means the same as the office of mobile home affairs as described in RCW 59.22.050.

NEW SECTION

WAC 365-212-020 How do I contact the office of manufactured housing? (1) You may write the office of manufactured housing at:

CTED/OCD

Office of Manufactured Housing

P.O. Box 48350

Olympia, WA 98504-8350

(2) You may call the automated services request line at:

1-800-964-0852 (within WA state)

1-360-725-2971 (Olympia area or outside WA state)

NEW SECTION

WAC 365-212-030 Who is eligible to receive relocation assistance? (1) Eligibility for relocation assistance is limited to low-income households. For purposes of this chapter, "low-income household" means a single person, family, or unrelated persons living together whose adjusted

income is less than eighty percent of the median family income, adjusted for household size, for the county where the mobile or manufactured home is located at the time of closure.

(2) Persons who meet the low-income criteria are eligible for assistance if they:

(a) Owned their home and lived in the park at the time the notice of closure or conversion to another use was issued; and

(b) Maintained ownership of the home and either:

(i) Relocated their home; or

(ii) Disposed of a home that cannot be relocated; and

(c) Submit a completed application as set out in WAC 365-212-040.

(3) Relocation assistance shall be paid on a first-come-first-served basis.

NEW SECTION

WAC 365-212-040 What constitutes a completed application? An application shall be considered complete when the applicant has submitted to the department an application on a form approved by the department together with:

(1) Income verification such as pay stubs, tax statements, documentation from a local, state or federal agency such as department of social and health services, employment security, Social Security, or any other documentation of income as determined by the department;

(2) A copy of the notice from the park owner, or other adequate proof, that the tenancy is terminated due to closure of the park or its conversion to another use;

(3) A copy of the rental agreement then in force or other proof that the applicant was a tenant at the time of notice of closure;

(4) A copy of the contract for relocating the home or other proof of actual relocation expenses. Documentation must include either the date of relocation or actual dates expenses were incurred;

(5) A statement of any other assistance received;

(6) For a home that cannot be relocated, applicants must provide:

(a) Adequate proof that the home cannot be relocated pursuant to WAC 365-212-070; and

(b) For applicants seeking reimbursement for a down payment on a new home, documentation of the purchase pursuant to WAC 365-212-080.

NEW SECTION

WAC 365-212-050 If I meet the requirements, how much assistance could I be eligible for? (1) Eligible applicants may be reimbursed for actual relocation expenses up to:

(a) Three thousand five hundred dollars for a single-wide; or

(b) Seven thousand dollars for a double-wide home.

(2) These maximum amounts apply to all expenses incurred to:

(a) Relocate the existing home; or

(b) Demolishing the existing home and, if applicable, pay a down payment toward another home pursuant to RCW 59.21.010(6).

NEW SECTION

WAC 365-212-060 What expenses are allowable for reimbursement? (1) The department is authorized to reimburse applicants for actual expenses, up to the maximum amounts, incurred in physically relocating their home. For homes that cannot be relocated, actual relocation expenses also include the costs for demolition of the existing home and the down payment toward the purchase of another home pursuant to RCW 59.21.010(6).

(2) Examples of reimbursable relocation expenses include, but are not limited to, the following:

(a) Breakdown of the home and preparation for transport. May include removing steps, decks, skirting, securing home for travel, etc.;

(b) Installation of the home at a new site. May include blocking, ERBS, plumbing, sewer connections, skirting, tie downs, utility/electrical connections, vapor barrier, site preparation, etc.;

(c) Transportation of the home to a new site or to a disposal facility, if not included in breakdown or installation costs;

(d) Awnings - relocation of existing awnings or purchase of new awnings if required by park;

(e) Hotel accommodations - if new site is not available or relocation to new site takes more than one day;

(f) Insurance - one time only for transporting home, etc., if not included in transportation fee;

(g) Mileage-personal vehicle to/from new site for set up;

(h) Nonrefundable fees - application fees, credit/screening fees;

(i) Permits - local and state;

(j) Porch/decking - when originally attached to home;

(k) Loan interest fees - when loan is for the sole purpose of relocating;

(l) Relocating internal items - such as household goods or furniture;

(m) Rental moving equipment - car, hauling equipment, trucks, etc.;

(n) Septic tanks on private land - installation and hook up;

(o) Siding replacement/repair - when damaged due to relocation;

(p) Stairs - if originally connected to home;

(q) Temporary storage for home - if new site is not available;

(r) Telephone - disconnection/reconnection costs only;

(s) Utility conversion/upgrade - when necessary in new park;

(t) Utility/electrical connections from street - when relocating onto private land; and

(u) Any other actual expenses determined by the department to be reimbursable.

NEW SECTION

WAC 365-212-070 What documentation must I provide as adequate proof a home cannot be relocated?

Applicants who dispose of their homes must provide:

(1) The demolition certificate from the county; and

(2) One of the following:

(a) A detailed receipt from the disposal site, landfill or other recipient of your demolished home; or

(b) Any other documentation determined by the department to constitute adequate proof.

NEW SECTION

WAC 365-212-080 What documentation must I provide to be reimbursed for a down payment on another home? Applicants must provide proof of down payment expenses that includes:

(1) A copy of the purchase and sale agreement; and

(2) One of the following forms of documentation:

(a) Canceled checks to the retailer or private party that detail the transaction;

(b) A copy of the department of licensing's title-transfer form for your home;

(c) A copy of the receipt for the purchase; or

(d) Any other proof of down payment as determined by the department.

NEW SECTION

WAC 365-212-090 What criteria is used to determine park-owner fraud? In order to demonstrate that a park was closed as the result of park-owner fraud, the applicant must provide a judgment or order of a court of law indicating a finding that the park was closed due to park-owner fraud.

WSR 03-07-049

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 02-03—Filed March 13, 2003, 3:44 p.m.]

Purpose: The dangerous waste regulations, chapter 173-303 WAC, set forth waste management standards for generators, transporters, and facilities that treat, store, recycle, or dispose of dangerous waste. The main purpose of this rule making is to adopt a conditional exclusion for controlled substances and pharmaceuticals. Several technical corrections are also adopted.

Citation of Existing Rules Affected by this Order: Amending chapter 173-303 WAC, Dangerous waste regulations.

Statutory Authority for Adoption: Chapters 70.105 and 70.105D RCW.

Adopted under notice filed as WSR 02-11-101 on May 20, 2002, and WSR 02-19-099 on September 17, 2002.

Changes Other than Editing from Proposed to Adopted Version: 1. WAC 173-303-071 (3)(nn) ~~Controlled substances and legend drugs that are state only dangerous~~

wastes. ~~Controlled substances as defined and regulated by 21 CFR Parts 1300-1399 and chapter 69.50 RCW (Schedule I through V drugs) and legend drugs as defined and regulated by chapter 69.41 RCW that are held in the custody of law enforcement agencies or possessed by any registrant or licensee as defined and regulated by 21 CFR Parts 1300-1399 and chapter 69.50 RCW and authorized to possess drugs within the state of Washington, and managed for destruction: Provided, That they are disposed of by incineration in a controlled combustion unit with a heat input rate greater than 250 million British thermal units/hour and a combustion zone temperature greater than 1500 degrees Fahrenheit or disposed by other methods approved by ecology:~~

(i) Controlled substances, legend drugs, and over-the-counter drugs that are state-only dangerous wastes.

(A) Controlled substances as defined and regulated by chapter 69.50 RCW (Schedule I through V);

(B) Legend drugs as defined and regulated by chapter 69.41 RCW; and

(C) Over-the-counter drugs as defined and regulated by chapter 69.60 RCW;

(ii) Controlled substances, legend drugs, and over-the-counter drugs that are held in the custody of law enforcement agencies or possessed by any licensee as defined and regulated by chapter 69.50 RCW or Title 18 RCW and authorized to possess drugs within the state of Washington are excluded, provided the drugs are disposed of by incineration in a controlled combustion unit with a heat input rate greater than 250 million British thermal units/hour, a combustion zone temperature greater than 1500 degrees Fahrenheit, or a facility permitted to incinerate municipal solid waste.

(iii) For the purposes of this exclusion the term 'drugs' means:

(A) Articles recognized in the official United States pharmacopoeia or the official homeopathic pharmacopoeia of the United States;

(B) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

(C) Substances (other than food) intended to affect the structure or any function of the body of man or other animals, as defined in RCW 18.64.011(3). (Note: RCW 18.64.011(3)(d) is intentionally not included in the definition of drugs for this exclusion.)

(iv) When possessed by any licensee the term drugs used in this exclusion means finished drug products.

Rationale for change: Most of the comments that ecology received encouraged expansion of the proposed exclusion to cover more generators and more pharmaceutical waste, including "over-the-counter-drugs." Ecology concurred with the information provided and modified the rule prior to adoption. One of the key reasons for including over-the-counter drugs is the fact that the line between prescription and over-the-counter drugs is not always clear due to the fact that many over-the-counter drugs were previously prescription drugs and this transition continues to occur. Another reason is that the rule, as originally proposed, did not address all the drug waste that law enforcement agencies must dispose of.

The final rule language for the conditional exclusion for drug disposal now includes controlled substances, legend drugs, also known as prescription drugs, and over-the-counter drugs. All of these drugs that would designate as state-only dangerous waste when disposed are considered appropriate for this conditional exclusion.

The use of this exclusion is limited to law enforcement authorities and licensees, a state term. The term registrant, a federal term, was dropped in favor of keeping the rule specific to Washington state.

The original emergency rule allowed only one burn facility, which is in Spokane, to be used for incineration of the drugs. The addition of the other combustion units (250 mil BTU/hr/1500°F) was intended to broaden the availability of other burn facilities, especially for law enforcement authorities, to destroy drugs while at the same time ensuring appropriate disposal. The addition of other burn units will lessen the risk associated with having only one unit in Washington if it were to become unavailable. Having various locations to destroy drugs will also afford those who use this exclusion an opportunity to save resources such as personnel and travel time. The combustion units described in the rule are fairly large. The larger combustion units were chosen because they are required to have the necessary emission control devices and operating temperatures to ensure safe destruction of the drugs.

The state's statutory definition of "drug" was added to the rule to make it clear what materials were intended to be eligible for the exclusion. Omission of the fourth statement in the state's definition of drugs was intentionally left out because ecology wanted to make it clear that the drugs eligible for this exclusion are to be finished drug product only. This would not include, for example, drug waste that is the result of a drug manufacturer's process that has yielded an off-specification product that is not suitable for sale.

2. WAC 173-303-620 (8)(f)

(8) Liability requirements.

(f) The following subsections are incorporated by reference: 40 C.F.R. section 260264.147(f), Financial test for liability coverage, (g) Guarantee for liability coverage, (h) Letter of credit for liability coverage, (i) Surety bond for liability coverage, and (j) Trust fund for liability coverage.

Rationale for change: A citation was corrected.

You may receive a copy of the concise explanatory statement from Chipper Hervieux, pher461@ecy.wa.gov, (360) 407-6756. Information may also be seen at <http://www.ecy.wa.gov/laws-rules/activity/wac173303.html>.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 29, 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.

March 12, 2003

Tom Fitzsimmons
Director

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-045 References to EPA's hazardous waste and permit regulations. (1) Any references in this chapter to any parts, subparts, or sections from EPA's hazardous waste regulations, including 40 CFR Parts 260 through 280 and Part 124, are in reference to those rules as they existed on July 1, 1999. Copies of the appropriate referenced federal requirements are available upon request from the department.

(2) The following sections and any cross-reference to these sections are not incorporated or adopted by reference because they are provisions that EPA cannot delegate to states:

(a) 40 CFR Parts 260.1 (b)(4)-(6) and 260.20-22.

(b) 40 CFR Parts 264.1 (d) and (f); 265.1 (c)(4); 264.149-150 and 265.149-150; 264.301(k); and 265.430.

(c) 40 CFR Parts 268.5 and 268.6; 268 Subpart B; 268.42(b) and 268.44 (~~except for 268.44(h)~~) (a) through (g).

(d) 40 CFR Parts 270.1 (c)(1)(i); 270.3; 270.60(b); and 270.64.

(e) 40 CFR Parts 124.1 (b)-(e); 124.4; 124.5(e); 124.9; 124.10 (a)(1)(iv); 124.12(e); 124.14(d); 124.15 (b)(2); 124.16; 124.17(b); 124.18; 124.19; and 124.21.

(3) Where EPA's regulations are incorporated by reference:

(a) "Regional administrator" means "the department."

(b) "Administrator" means "director."

(c) "Director" means "department."

(d) These substitutions should be made as appropriate. They should not be made where noted otherwise in this chapter. They should not be made where another EPA region is referred to, where a provision cannot be delegated to the state, or where the director referred to is the director of another agency.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-070 Designation of dangerous waste.

(1) Purpose and applicability.

(a) This section describes the procedures for determining whether or not a solid waste is DW or EHW.

(b) The procedures in this section are applicable to any person who generates a solid waste (including recyclable materials) that is not exempted or excluded by this chapter or by the department. Any person who must determine whether or not their solid waste is designated must follow the procedures set forth in subsection (3) of this section. Any person who determines by these procedures that their waste is designated DW or EHW is subject to all applicable requirements of this chapter.

(c) The requirements for the small quantity generator exemption are found in subsection (8) of this section.

(2)(a) Once a material has been determined to be a dangerous waste, then any solid waste generated from the recycling, treatment, storage, or disposal of that dangerous waste is a dangerous waste unless and until:

(i) The generator has been able to accurately describe the variability or uniformity of the waste over time, and has been able to obtain demonstration samples which are representative of the waste's variability or uniformity; and

(ii)(A) It does not exhibit any of the characteristics of WAC 173-303-090; however, wastes that exhibit a characteristic at the point of generation may still be subject to the requirements of WAC 173-303-140 (2)(a), even if they no longer exhibit a characteristic at the point of land disposal; and

(B) If it was a listed waste under WAC 173-303-080 through 173-303-083, it also has been exempted pursuant to WAC 173-303-910(3); or

(iii) If originally designated only through WAC 173-303-100, it does not meet any of the criteria of WAC 173-303-100.

Such solid waste will include but not be limited to any sludge, spill residue, ash emission control dust, leachate, or precipitation run-off. Precipitation run-off will not be considered a dangerous waste if it can be shown that the run-off has not been contaminated with the dangerous waste, or that the run-off is adequately addressed under existing state laws (e.g. chapter 90.48 RCW), or that the run-off does not exhibit any of the criteria or characteristics described in WAC 173-303-100.

(b) Materials that are reclaimed from solid wastes and that are used beneficially (as provided in WAC 173-303-016 and 173-303-017) are not solid wastes and hence are not dangerous wastes under this section unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.

(c) Notwithstanding subsections (1) and (2) of this section and provided the debris does not exhibit a characteristic identified in WAC 173-303-090, the following materials are not subject to regulation under this chapter:

(i) Hazardous debris that has been treated using one of the required extraction or destruction technologies specified in Table 1 of 40 CFR section 268.45; persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements; or

(ii) Debris that the department, considering the extent of contamination, has determined is no longer contaminated with hazardous waste.

(3) Designation procedures.

(a) To determine whether or not a solid waste is designated as a dangerous waste a person must:

(i) First, determine if the waste is a listed discarded chemical product, WAC 173-303-081;

(ii) Second, determine if the waste is a listed dangerous waste source, WAC 173-303-082;

(iii) Third, if the waste is not listed in WAC 173-303-081 or 173-303-082, or for the purposes of compliance with the federal land disposal restrictions as adopted by reference in WAC 173-303-140, determine if the waste exhibits any dangerous waste characteristics, WAC 173-303-090; and

(iv) Fourth, if the waste is not listed in WAC 173-303-081 or 173-303-082, and does not exhibit a characteristic in WAC 173-303-090, determine if the waste meets any dangerous waste criteria, WAC 173-303-100.

(b) A person must check each section, in the order set forth, until they determine whether the waste is designated as a dangerous waste. Once the waste is determined to be a dangerous waste, further designation is not required except as required by subsection (4) or (5) of this section. If a person has checked the waste against each section and the waste is not designated, then the waste is not subject to the requirements of chapter 173-303 WAC.

Any person who wishes to seek an exemption for a waste which has been designated DW or EHW must comply with the requirements of WAC 173-303-072.

(c) For the purpose of determining if a solid waste is a dangerous waste as identified in WAC 173-303-080 through 173-303-100, a person must either:

(i) Test the waste according to the methods, or an approved equivalent method, set forth in WAC 173-303-110; or

(ii) Apply knowledge of the waste in light of the materials or the process used, when:

(A) Such knowledge can be demonstrated to be sufficient for determining whether or not it designated and/or designated properly; and

(B) All data and records supporting this determination in accordance with WAC 173-303-210(3) are retained on-site.

(4) Testing required. Notwithstanding any other provisions of this chapter, the department may require any person to test a waste according to the methods, or an approved equivalent method, set forth in WAC 173-303-110 to determine whether or not the waste is designated under the dangerous waste lists, characteristics, or criteria, WAC 173-303-080 through 173-303-100. Such testing may be required if the department has reason to believe that the waste would be designated DW or EHW by the dangerous waste lists, characteristics, or criteria, or if the department has reason to believe that the waste is designated improperly (e.g., the waste has been designated DW but should actually be designated EHW). If a person, pursuant to the requirements of this subsection, determines that the waste is a dangerous waste or that its designation must be changed, then they are subject to the applicable requirements of this chapter 173-303 WAC. The department will base a requirement to test a waste on evidence that includes, but is not limited to:

(a) Test information indicating that the person's waste may be DW or EHW;

(b) Evidence that the person's waste is very similar to another person's already designated DW or EHW;

(c) Evidence that the person's waste has historically been a DW or EHW;

(d) Evidence or information about a person's manufacturing materials or processes which indicate that the wastes may be DW or EHW; or

(e) Evidence that the knowledge or test results a person has regarding a waste is not sufficient for determining whether or not it designated and/or designated properly.

(5) Additional designation required. A generator must manage dangerous waste under the most stringent management standards that apply. The following subsections describe how waste that has been designated as DW under the dangerous waste lists, WAC 173-303-080 through 173-303-082, or characteristics, WAC 173-303-090, or in the case of (c) of this subsection, under the lists, characteristics, or criteria, must be further designated under the dangerous waste criteria, WAC 173-303-100. This further designation under the criteria is necessary because it may change how the waste must be managed. Additional designation is required when:

(a) The waste is designated as DW with a QEL of 220 pounds and the generator otherwise qualifies as a small quantity generator. In this case, a generator must determine if their DW is also designated as a toxic EHW, WAC 173-303-100, with a QEL of 2.2 pounds; or

(b) The waste is designated as DW and the waste is to be discharged to a POTW operating under WAC 173-303-802(4) (Permits by rule). In this case, a generator must determine if the waste is also an EHW under WAC 173-303-100; or

(c) The waste is designated as a state-only DW and the waste is to be:

(i) Burned for energy recovery, as used oil, under the provisions of WAC 173-303-515; or

(ii) Land disposed within the state. In this case, a generator must determine if the waste is also an EHW under WAC 173-303-100.

(6) Dangerous waste numbers. When a person is reporting or keeping records on a dangerous waste, they must use all the dangerous waste numbers which they know are assignable to the waste from the dangerous waste lists, characteristics, or criteria. For example, if the waste is ignitable *and* contains more than 5 mg/l leachable lead when tested for the toxicity characteristic, they must use the dangerous waste numbers of D001 and D008. This will not be construed as requiring a person to designate their waste beyond those designation requirements set forth in subsections (2), (3), (4), and (5) of this section.

(7) Quantity exclusion limits; aggregated waste quantities.

(a) Quantity exclusion limits. In each of the designation sections describing the lists, characteristics, and criteria, quantity exclusion limits (QEL) are identified. The QEL are used to distinguish when a dangerous waste is only subject to the small quantity generator provisions, and when a dangerous waste is subject to the full requirements of this chapter. Any solid waste which is not excluded or exempted and which is listed by or exhibits the characteristics or meets the criteria of this chapter is a dangerous waste. Small quantity generators who produce dangerous waste below the QEL are subject to the requirements described in subsection (8) of this section.

(b) Aggregated waste quantities. A person may be generating, accumulating, or storing more than one kind of dangerous waste. In such cases, they must consider the aggregate quantity of their wastes when determining whether or not their waste amounts exceed the specific limits for waste accumulation or the specific quantity exclusion limits (QEL) for waste generation. Waste quantities must be aggregated for all wastes with common QEL's. Example: If a person generates 100 pounds of an ignitable waste and 130 pounds of a persistent waste, then both wastes are regulated because their aggregate waste quantity (230 pounds) exceeds their common QEL of 220 pounds. On the other hand, if a person generates one pound of a toxic EHW and 218 pounds of a corrosive waste, their quantities would not be aggregated because they do not share a common QEL (2.2 pounds and 220 pounds, respective QEL's). (Note: In order to remain a small quantity generator, the total quantity of dangerous waste generated in one month, all DW and EHW regardless of their QELs, must not equal or exceed 220 pounds. Not more than 2.2 pounds of a waste with a 2.2 pound QEL may be part of that total.)

(c) When making the quantity determinations of this subsection and WAC 173-303-170 through 173-303-230, generators must include all dangerous wastes they generate, except dangerous waste that:

(i) Is exempt from regulation under WAC 173-303-071; or

(ii) Is recycled under WAC 173-303-120 (2)(a), (3)(c), (e), ~~((e))~~ (h) or (5); or

(iii) Is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in WAC 173-303-040; or

(iv) Is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under WAC 173-303-120 (4)(a); or

(v) Is spent lead-acid batteries managed under the requirements of WAC 173-303-120 (3)(f) and 173-303-520; or

(vi) Is universal waste managed under WAC 173-303-077 and 173-303-573.

(d) In determining the quantity of dangerous waste generated, a generator need not include:

(i) Dangerous waste when it is removed from on-site storage; or

(ii) Reserve; or

(iii) Spent materials that are generated, reclaimed, and subsequently reused on-site, as long as such spent materials have been counted once (Note: If after treatment or reclamation a residue is generated with a different waste code(s), that residue must be counted); or

(iv) The container holding/containing the dangerous waste as described under WAC 173-303-160(1).

(8) Small quantity generators.

(a) A person is a small quantity generator and subject to the requirements of this subsection if:

(i) Their waste is dangerous waste under subsection (3) of this section, and the quantity of waste generated per month (or the aggregated quantity if more than one kind of waste is generated) does not equal or exceed the quantity exclusion

limit (QEL) for such waste (or wastes) as described in WAC 173-303-070(7); and

(ii) The quantity accumulated or stored does not exceed 2200 pounds for wastes with a 220 pound QEL and 2.2 pounds for waste with a 2.2 pound QEL. (Exception: The accumulation limit for the acute hazardous wastes described in WAC 173-303-081 (2)(iv) and 173-303-082 (2)(b) is 220 lbs); and

(iii) The total quantity of dangerous waste generated in one month, all DW and EHW regardless of their QELs, does not equal or exceed 220 pounds. If a person generates any dangerous wastes that exceed the QEL or accumulates or stores waste that exceeds the accumulation limits, then all dangerous waste generated, accumulated, or stored by that person is subject to the requirements of this chapter. A small quantity generator who generates in excess of the quantity exclusion limits or, accumulates, or stores waste in excess of the accumulation limits becomes subject to the full requirements of this chapter and cannot again be a small quantity generator until after all dangerous waste on-site at the time he or she became fully regulated have been removed, treated, or disposed.

Example. If a person generates four pounds of an acute hazardous waste discarded chemical product (QEL is 2.2 pounds) and 200 pounds of an ignitable waste (QEL is 220 pounds), then both wastes are fully regulated, and the person is not a small quantity generator for either waste.

(Comment: If a generator generates acute hazardous waste in a calendar month in quantities greater than the QELs, all quantities of that acute hazardous waste are subject to full regulation under this chapter. "Full regulation" means the regulations applicable to generators of greater than 2200 pounds of dangerous wastes in a calendar month.)

(b) Small quantity generators will not be subject to the requirements of this chapter if they:

(i) Designate their waste in accordance with WAC 173-303-070; and

(ii) Manage their waste in a way that does not pose a potential threat to human health or the environment; and

(iii) Either treat or dispose of their dangerous waste in an on-site facility, or ensure delivery to an off-site facility, either of which, if located in the United States, is:

(A) Permitted (including permit-by-rule, interim status, or final status) under WAC 173-303-800 through 173-303-840;

(B) Authorized to manage dangerous waste by another state with a hazardous waste program approved under 40 CFR Part 271, or by EPA under 40 CFR Part 270;

(C) Permitted to manage moderate-risk waste under chapter 173-304 WAC (Minimum functional standards for solid waste handling), operated in accordance with state and local regulations, and consistent with the applicable local hazardous waste plan that has been approved by the department;

(D) A facility that beneficially uses or reuses, or legitimately recycles or reclaims the dangerous waste, or that treats the waste prior to such recycling activities;

(E) Permitted, licensed, or registered to manage municipal solid waste and, if managed in a municipal solid waste

landfill is subject to 40 CFR Part 258 or chapter 173-351 WAC;

(F) Permitted, licensed, or registered by a state to manage nonmunicipal nonhazardous waste and, if managed in a nonmunicipal nonhazardous waste disposal unit after January 1, 1998, is subject to the requirements in 40 CFR 257.5 through 257.30;

(G) A publicly owned treatment works (POTW): Provided, That small quantity generator(s) comply with the provisions of the domestic sewage exclusion found in WAC 173-303-071 (3)(a); or

(H) For universal waste managed under WAC 173-303-573, a universal waste handler or destination facility subject to the requirements of WAC 173-303-573; and

(iv) Submit an annual report in accordance with WAC 173-303-220 if they have obtained an EPA/state identification number pursuant to WAC 173-303-060.

(c) If a small quantity generator's wastes are mixed with used oil, the mixture is subject to WAC 173-303-510 if it is destined to be burned for energy recovery. Any material produced from such a mixture by processing, blending, or other treatment is also regulated if it is destined to be burned for energy recovery.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-071 Excluded categories of waste. (1) Purpose. Certain categories of waste have been excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050, because they generally are not dangerous waste, are regulated under other state and federal programs, or are recycled in ways which do not threaten public health or the environment. WAC 173-303-071 describes these excluded categories of waste.

(2) Excluding wastes. Any persons who generate a common class of wastes and who seek to categorically exclude such class of wastes from the requirements of this chapter must comply with the applicable requirements of WAC 173-303-072. No waste class will be excluded if any of the wastes in the class are regulated as hazardous waste under 40 CFR Part 261.

(3) Exclusions. The following categories of waste are excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050, 173-303-145, and 173-303-960, and as otherwise specified:

(a)(i) Domestic sewage; and

(ii) Any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly owned treatment works (POTW) for treatment provided:

(A) The generator or owner/operator has obtained a state waste discharge permit issued by the department, a temporary permit obtained pursuant to RCW 90.48.200, or pretreatment permit (or written discharge authorization) from a local sewage utility delegated pretreatment program responsibilities pursuant to RCW 90.48.165;

(B) The waste discharge is specifically authorized in a state waste discharge permit, pretreatment permit or written discharge authorization, or in the case of a temporary permit the waste is accurately described in the permit application;

(C) The waste discharge is not prohibited under 40 CFR Part 403.5; and

(D) The waste prior to mixing with domestic sewage must not exhibit dangerous waste characteristics for ignitability, corrosivity, reactivity, or toxicity as defined in WAC 173-303-090, and must not meet the dangerous waste criteria for toxic dangerous waste or persistent dangerous waste under WAC 173-303-100, unless the waste is treatable in the publicly owned treatment works (POTW) where it will be received. This exclusion does not apply to the generation, treatment, storage, recycling, or other management of dangerous wastes prior to discharge into the sanitary sewage system;

(b) Industrial wastewater discharges that are point-source discharges subject to regulation under Section 402 of the Clean Water Act. This exclusion does not apply to the collection, storage, or treatment of industrial waste-waters prior to discharge, nor to sludges that are generated during industrial wastewater treatment. Owners or operators of certain wastewater treatment facilities managing dangerous wastes may qualify for a permit-by-rule pursuant to WAC 173-303-802(5);

(c) Household wastes, including household waste that has been collected, transported, stored, or disposed. Wastes that are residues from or are generated by the management of household wastes (e.g., leachate, ash from burning of refuse-derived fuel) are not excluded by this provision. "Household wastes" means any waste material (including, but not limited to, garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). A resource recovery facility managing municipal solid waste will not be deemed to be treating, storing, disposing of, or otherwise managing dangerous wastes for the purposes of regulation under this chapter, if such facility:

(i) Receives and burns only:

(A) Household waste (from single and multiple dwellings, hotels, motels, and other residential sources); and

(B) Solid waste from commercial or industrial sources that does not contain dangerous waste; and

(ii) Such facility does not accept dangerous wastes and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that dangerous wastes are not received at or burned in such facility;

(d) Agricultural crops and animal manures which are returned to the soil as fertilizers;

(e) Asphaltic materials designated only for the presence of PAHs by WAC 173-303-100(6). For the purposes of this exclusion, asphaltic materials means materials that have been used for structural and construction purposes (e.g., roads, dikes, paving) that were produced from mixtures of oil and sand, gravel, ash or similar substances;

(f) Roofing tars and shingles, except that these wastes are not excluded if mixed with wastes listed in WAC 173-303-081 or 173-303-082, or if they exhibit any of the characteristics specified in WAC 173-303-090;

(g) Treated wood waste and wood products including:

(i) Arsenical-treated wood that fails the test for the toxicity characteristic of WAC 173-303-090(8) (dangerous waste numbers D004 through D017 only), or which fails any state criteria, if the waste is generated by persons who utilize the arsenical-treated wood for the materials' intended end use.

(ii) Wood treated with other preservatives provided such treated wood is, within one hundred eighty days after becoming waste:

(A) Disposed of at a landfill that is permitted in accordance with WAC 173-304-460, minimum functional standards for solid waste handling, or chapter 173-351 WAC, criteria for municipal solid waste landfills, and provided that such wood is neither a listed waste under WAC 173-303-9903 and 173-303-9904 nor a TCLP waste under WAC 173-303-090(8); or

(B) Sent to a facility that will legitimately treat or recycle the treated wood waste, and manage any residue in accordance with that state's dangerous waste regulations; or

(C) Sent off-site to a permitted TSD facility or placed in an on-site facility which is permitted by the department under WAC 173-303-800 through WAC 173-303-845. In addition, creosote-treated wood is excluded when burned for energy recovery in an industrial furnace or boiler that has an order of approval issued pursuant to RCW 70.94.152 by ecology or a local air pollution control authority to burn creosote treated wood.

(h) Irrigation return flows;

(i) Reserve;

(j) Mining overburden returned to the mining site;

(k) Polychlorinated biphenyl (PCB) wastes:

(i) PCB wastes whose disposal is regulated by EPA under 40 CFR 761.60 (Toxic Substances Control Act) and that are dangerous either because:

(A) They fail the test for toxicity characteristic (WAC 173-303-090(8), Dangerous waste codes D018 through D043 only); or

(B) Because they are designated only by this chapter and not designated by 40 CFR Part 261, are exempt from regulation under this chapter except for WAC 173-303-505 through 173-303-525, 173-303-960, those sections specified in subsection (3) of this section, and 40 CFR Part 266;

(ii) Wastes that would be designated as dangerous waste under this chapter solely because they are listed as W001 under WAC 173-303-9904 when such wastes are stored and disposed in a manner equivalent to the requirements of 40 CFR Part 761 Subpart D for PCB concentrations of 50 ppm or greater.

(l) Samples:

(i) Except as provided in (l)(ii) of this subsection, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of this chapter, when:

(A) The sample is being transported to a lab for testing or being transported to the sample collector after testing; or

(B) The sample is being stored by the sample collector before transport, by the laboratory before testing, or by the laboratory after testing prior to return to the sample collector; or

(C) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action).

(ii) In order to qualify for the exemptions in (l)(i) of this subsection, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:

(A) Comply with United States Department of Transportation (DOT), United States Postal Service (USPS), or any other applicable shipping requirements; or

(B) Comply with the following requirements if the sample collector determines that DOT or USPS, or other shipping requirements do not apply:

(I) Assure that the following information accompanies the sample:

(AA) The sample collector's name, mailing address, and telephone number;

(BB) The laboratory's name, mailing address, and telephone number;

(CC) The quantity of the sample;

(DD) The date of shipment;

(EE) A description of the sample; and

(II) Package the sample so that it does not leak, spill, or vaporize from its packaging.

(iii) This exemption does not apply if the laboratory determines that the waste is dangerous but the laboratory is no longer meeting any of the conditions stated in (l)(i) of this subsection;

(m) Reserve;

(n) Dangerous waste generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated nonwaste-treatment-manufacturing unit until it exits the unit in which it was generated. This exclusion does not apply to surface impoundments, nor does it apply if the dangerous waste remains in the unit more than ninety days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials;

(o) Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC codes 331 and 332), except that these wastes are not excluded if they exhibit one or more of the dangerous waste criteria (WAC 173-303-100) or characteristics (WAC 173-303-090);

(p) Wastes from burning any of the materials exempted from regulation by WAC 173-303-120 (2)(a)(vii) and (viii). These wastes are not excluded if they exhibit one or more of the dangerous waste characteristics or criteria;

(q) As of January 1, 1987, secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:

(i) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

(ii) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);

(iii) The secondary materials are never accumulated in such tanks for over twelve months without being reclaimed;

(iv) The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal; and

(v) A generator complies with the requirements of chapter 173-303 WAC for any residues (e.g., sludges, filters, etc.) produced from the collection, reclamation, and reuse of the secondary materials.

(r) Treatability study samples.

(i) Except as provided in (r)(ii) of this subsection, persons who generate or collect samples for the purpose of conducting treatability studies as defined in WAC 173-303-040 are not subject to the requirements of WAC 173-303-180, 173-303-190, and 173-303-200 (1)(a), nor are such samples included in the quantity determinations of WAC 173-303-070 (7) and (8) and 173-303-201 when:

(A) The sample is being collected and prepared for transportation by the generator or sample collector; or

(B) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or

(C) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study; or

(D) The sample or waste residue is being transported back to the original generator from the laboratory or testing facility.

(ii) The exemption in (r)(i) of this subsection is applicable to samples of dangerous waste being collected and shipped for the purpose of conducting treatability studies provided that:

(A) The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with nonacute dangerous waste, 1000 kg of nonacute dangerous waste other than contaminated media, 1 kg of acutely hazardous waste, 2500 kg of media contaminated with acutely hazardous waste for each process being evaluated for each generated waste stream; and

(B) The mass of each sample shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with nonacute dangerous waste or may include 2500 kg of media contaminated with acute hazardous waste, 1000 kg of dangerous waste, and 1 kg of acutely hazardous waste; and

(C) The sample must be packaged so that it will not leak, spill, or vaporize from its packaging during shipment and the requirements of (r)(ii)(C)(I) or (II) of this subsection are met.

(I) The transportation of each sample shipment complies with United States Department of Transportation (DOT), United States Postal Service (USPS), or any other applicable shipping requirements; or

(II) If the DOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample:

(AA) The name, mailing address, and telephone number of the originator of the sample;

(BB) The name, address, and telephone number of the laboratory or testing facility that will perform the treatability study;

(CC) The quantity of the sample;

(DD) The date of shipment; and

(EE) A description of the sample, including its dangerous waste number.

(D) The sample is shipped, within ninety days of being generated or of being taken from a stream of previously generated waste, to a laboratory or testing facility which is exempt under (s) of this subsection or has an appropriate final facility permit or interim status; and

(E) The generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:

(I) Copies of the shipping documents;

(II) A copy of the contract with the facility conducting the treatability study;

(III) Documentation showing:

(AA) The amount of waste shipped under this exemption;

(BB) The name, address, and EPA/state identification number of the laboratory or testing facility that received the waste;

(CC) The date the shipment was made; and

(DD) Whether or not unused samples and residues were returned to the generator.

(F) The generator reports the information required under (r)(ii)(E)(III) of this subsection in its annual report.

(iii) The department may grant requests, on a case-by-case basis, for up to an additional two years for treatability studies involving bioremediation. The department may grant requests on a case-by-case basis for quantity limits in excess of those specified in (r)(ii)(A) and (B) of this subsection and (s)(iv) of this subsection, for up to an additional 5000 kg of media contaminated with nonacute dangerous waste, 500 kg of nonacute dangerous waste, 1 kg of acute hazardous waste, and 2500 kg of media contaminated with acute hazardous waste or for up to an additional 10,000 kg of wastes regulated only by this chapter and not regulated by 40 CFR Part 261, to conduct further treatability study evaluation:

(A) In response to requests for authorization to ship, store and conduct treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process, (e.g., batch versus continuous), size of the unit undergoing testing (particularly in relation to scale-up considerations), the time/quantity of material required to reach steady state operating conditions, or test design considerations such as mass balance calculations.

(B) In response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies, when:

There has been an equipment or mechanical failure during the conduct of a treatability study; there is a need to verify the results of previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.

(C) The additional quantities and time frames allowed in (r)(iii)(A) and (B) of this subsection are subject to all the provisions in (r)(i) and (r)(ii)(C) through (F) of this subsection.

The generator or sample collector must apply to the department where the sample is collected and provide in writing the following information:

(I) The reason the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;

(II) Documentation accounting for all samples of dangerous waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;

(III) A description of the technical modifications or change in specifications which will be evaluated and the expected results;

(IV) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

(V) Such other information that the department considers necessary.

(s) Samples undergoing treatability studies at laboratories and testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to chapter 70.105 RCW) are not subject to the requirements of this chapter, except WAC 173-303-050, 173-303-145, and 173-303-960 provided that the conditions of (s)(i) through (xiii) of this subsection are met. A mobile treatment unit (MTU) may qualify as a testing facility subject to (s)(i) through (xiii) of this subsection. Where a group of MTUs are located at the same site, the limitations specified in (s)(i) through (xiii) of this subsection apply to the entire group of MTUs collectively as if the group were one MTU.

(i) No less than forty-five days before conducting treatability studies the laboratory or testing facility notifies the department in writing that it intends to conduct treatability studies under this subsection.

(ii) The laboratory or testing facility conducting the treatability study has an EPA/state identification number.

(iii) No more than a total of 10,000 kg of "as received" media contaminated with nonacute dangerous waste, 2500 kg of media contaminated with acute hazardous waste or 250 kg of other "as received" dangerous waste is subject to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.

(iv) The quantity of "as received" dangerous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with nonacute dangerous waste, 2500 kg of media contaminated with acute hazardous waste, 1000 kg of nonacute dangerous wastes other than contaminated media, and 1 kg of acutely hazardous waste. This quantity limitation does not include treatment materials (including nondangerous solid waste) added to "as received" dangerous waste.

(v) No more than ninety days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.

(vi) The treatability study does not involve the placement of dangerous waste on the land or open burning of dangerous waste.

(vii) The laboratory or testing facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:

(A) The name, address, and EPA/state identification number of the generator or sample collector of each waste sample;

(B) The date the shipment was received;

(C) The quantity of waste accepted;

(D) The quantity of "as received" waste in storage each day;

(E) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;

(F) The date the treatability study was concluded;

(G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated TSD facility, the name of the TSD facility and its EPA/state identification number.

(viii) The laboratory or testing facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.

(ix) The laboratory or testing facility prepares and submits a report to the department by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

(A) The name, address, and EPA/state identification number of the laboratory or testing facility conducting the treatability studies;

(B) The types (by process) of treatability studies conducted;

(C) The names and addresses of persons for whom studies have been conducted (including their EPA/state identification numbers);

(D) The total quantity of waste in storage each day;

(E) The quantity and types of waste subjected to treatability studies;

(F) When each treatability study was conducted;

(G) The final disposition of residues and unused sample from each treatability study.

(x) The laboratory or testing facility determines whether any unused sample or residues generated by the treatability study are dangerous waste under WAC 173-303-070 and if so, are subject to the requirements of this chapter, unless the residues and unused samples are returned to the sample originator under the exemption in (r) of this subsection.

(xi) The laboratory or testing facility notifies the department by letter when it is no longer planning to conduct any treatability studies at the site.

(xii) The date the sample was received, or if the treatability study has been completed, the date of the treatability study, is marked and clearly visible for inspection on each container.

(xiii) While being held on site, each container and tank is labeled or marked clearly with the words "dangerous waste" or "hazardous waste." Each container or tank must also be marked with a label or sign which identifies the major risk(s) associated with the waste in the container or tank for employees, emergency response personnel and the public.

Note: If there is already a system in use that performs this function in accordance with local, state, or federal regulations, then such system will be adequate.

(t) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic of WAC 173-303-090(8) (dangerous waste numbers D018 through D043 only) and are subject to the corrective action regulations under 40 CFR Part 280.

(u) Special incinerator ash (as defined in WAC 173-303-040).

(v) Wood ash that would designate solely for corrosivity by WAC 173-303-090 (6)(a)(iii). For the purpose of this exclusion, wood ash means ash residue and emission control dust generated from the combustion of untreated wood, wood treated solely with creosote, and untreated wood fiber materials including, but not limited to, wood chips, saw dust, tree stumps, paper, cardboard, residuals from waste fiber recycling, deinking rejects, and associated wastewater treatment solids. This exclusion allows for the use of auxiliary fuels including, but not limited to, oils, gas, coal, and other fossil fuels in the combustion process.

(w)(i) Spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose; and

(ii) Wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood.

(iii) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in (w)(i) and (ii) of this subsection, so long as they meet all of the following conditions:

(A) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water borne plants in the production process for their original intended purpose;

(B) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or ground water or both;

(C) Any unit used to manage wastewaters and/or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;

(D) Any drip pad used to manage the wastewaters and/or spent wood preserving solutions prior to reuse complies with the standards in Part 265, Subpart W which is incorporated by reference at WAC 173-303-400 (3)(a), regardless of whether the plant generates a total of less than 220 pounds/month of dangerous waste; and

(E) Prior to operating pursuant to this exclusion, the plant owner or operator submits to the department a one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records for a period of no less than three years from the date specified in the notice. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the department for reinstatement. The department may reinstate the exclusion upon finding that the plant has returned to compliance with all conditions and that violations are not likely to recur.

(F) Additional reports.

(I) Upon determination by the department that the storage of wood preserving wastewaters and spent wood preserving solutions in tanks and/or containers poses a threat to public health or the environment, the department may require the owner/operator to provide additional information regarding the integrity of structures and equipment used to store wood preserving wastewaters and spent wood preserving solutions. This authority applies to tanks and secondary containment systems used to store wood preserving wastewaters and spent wood preserving solutions in tanks and containers. The department's determination of a threat to public health or the environment may be based upon observations of factors that would contribute to spills or releases of wood preserving wastewaters and spent wood preserving solutions or the generation of hazardous by-products. Such observations may include, but are not limited to, leaks, severe corrosion, structural defects or deterioration (cracks, gaps, separation of joints), inability to completely inspect tanks or structures, or concerns about the age or design specification of tanks.

(II) When required by the department, a qualified, independent professional engineer registered to practice in Washington state must perform the assessment of the integrity of tanks or secondary containment systems.

(III) Requirement for facility repairs and improvements. If, upon evaluation of information obtained by the department under (w)(iii)(F)(I) of this subsection, it is determined that repairs or structural improvements are necessary in order to eliminate threats, the department may require the owner/operator to discontinue the use of the tank system or container storage unit and remove the wood preserving wastewaters and spent wood preserving solutions until such repairs or improvements are completed and approved by the department.

(x) Nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery

units, provided it is shipped in drums (if shipped) and not land disposed before recovery.

(y) Used oil filters that are recycled in accordance with WAC 173-303-120, as used oil and scrap metal.

(z) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

(aa) Wastes that fail the test for the toxicity characteristic in WAC 173-303-090 because chromium is present or are listed in WAC 173-303-081 or 173-303-082 due to the presence of chromium. The waste must not designate for any other characteristic under WAC 173-303-090, for any of the criteria specified in WAC 173-303-100, and must not be listed in WAC 173-303-081 or 173-303-082 due to the presence of any constituent from WAC 173-303-9905 other than chromium. The waste generator must be able to demonstrate that:

(i) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and

(ii) The waste is generated from an industrial process that uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and

(iii) The waste is typically and frequently managed in nonoxidizing environments.

(bb)(i) Nonwastewater residues, such as slag, resulting from high temperature metals recovery (HTMR) processing of K061, K062 or F006 waste, in units identified as rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations or industrial furnaces (as defined in WAC 173-303-040 - blast furnaces, smelting, melting and refining furnaces, and other devices the department may add to the list - of the definition for "industrial furnace"), that are disposed in subtitle D units, provided that these residues meet the generic exclusion levels identified in the tables in this paragraph for all constituents, and exhibit no characteristics of dangerous waste. Testing requirements must be incorporated in a facility's waste analysis plan or a generator's self-implementing waste analysis plan; at a minimum, composite samples of residues must be collected and analyzed quarterly and/or when the process or operation generating the waste changes. Persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements.

Constituent Maximum for any single composite sample-TCLP (mg/l)

Generic exclusion levels for K061 and K062 nonwastewater HTMR residues

Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
(2)Lead	0.15
Mercury	0.009

Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

Generic exclusion levels for F006 nonwastewater HTMR residues

Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Cyanide (total) (mg/kg)	1.8
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

(ii) A one-time notification and certification must be placed in the facility's files and sent to the department for K061, K062 or F006 HTMR residues that meet the generic exclusion levels for all constituents and do not exhibit any characteristics that are sent to subtitle D units. The notification and certification that is placed in the generator's or treater's files must be updated if the process or operation generating the waste changes and/or if the subtitle D unit receiving the waste changes. However, the generator or treater need only notify the department on an annual basis if such changes occur. Such notification and certification should be sent to the department by the end of the calendar year, but no later than December 31. The notification must include the following information: The name and address of the subtitle D unit receiving the waste shipments; the dangerous waste number(s) and treatability group(s) at the initial point of generation; and, the treatment standards applicable to the waste at the initial point of generation. The certification must be signed by an authorized representative and must state as follows: "I certify under penalty of law that the generic exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of dangerous waste is exhibited. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment." These wastes are not excluded if they exhibit one or more of the dangerous waste characteristics (WAC 173-303-090) or criteria (WAC 173-303-100).

(cc)(i) Oil-bearing hazardous secondary materials (that is, sludges, by-products, or spent materials) that are generated at a petroleum refinery (SIC code 2911) and are inserted into the petroleum refining process (SIC code 2911 - including,

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but not limited to, distillation, catalytic cracking, fractionation, or thermal cracking units (that is, cokers)) unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this paragraph: Provided, That the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated, or sent directly to another petroleum refinery, and still be excluded under this provision. Except as provided in (cc)(ii) of this subsection, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (that is, from sources other than petroleum refineries) are not excluded under this section. Residuals generated from processing or recycling materials excluded under this paragraph, where such materials as generated would have otherwise met a listing under WAC 173-303-081 and 173-303-082, are designated as F037 listed wastes when disposed of or intended for disposal.

(ii) Recovered oil that is recycled in the same manner and with the same conditions as described in (cc)(i) of this subsection. Recovered oil is oil that has been reclaimed from secondary materials (including wastewater) generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto (SIC codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and 5172). Recovered oil does not include oil-bearing hazardous wastes listed in WAC 173-303-081 and 173-303-082; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil as defined in WAC 173-303-040.

(dd) Dangerous waste Nos. K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are dangerous only because they exhibit the Toxicity Characteristic (TC) specified in WAC 173-303-090(8) when, subsequent to generation, these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are recycled to coke ovens or tar recovery or refining processes, or mixed with coal tar.

(ee) Biological treatment sludge from the treatment of one of the following wastes listed in WAC 173-303-9904 - organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (Dangerous Waste No. K156), and wastewaters from the production of carbamates and carbamoyl oximes (Dangerous Waste No. K157) unless it exhibits one or more of the characteristics or criteria of dangerous waste.

(ff) Excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled.

(gg) Shredded circuit boards being recycled: Provided, That they are:

(i) Stored in containers sufficient to prevent a release to the environment prior to recovery; and

(ii) Free of mercury switches, mercury relays and nickel-cadmium batteries and lithium batteries.

(hh) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refinery process streams, provided:

(i) The oil is hazardous only because it exhibits the characteristic of ignitability (as defined in WAC 173-303-090(5) and/or toxicity for benzene (WAC 173-303-090(8), waste code D018); and

(ii) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process.

An "associated organic chemical manufacturing facility" is a facility where the primary SIC code is 2869, but where operations may also include SIC codes 2821, 2822, and 2865; and is physically colocated with a petroleum refinery; and where the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials (that is, sludges, by-products, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.

(ii) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid unless the material is placed on the land, or accumulated speculatively as defined in WAC 173-303-016(5).

(jj) Catalyst inert support media separated from one of the following wastes listed in WAC 173-303-9904 Specific Sources - Spent hydrotreating catalyst (EPA Hazardous Waste No. K171), and Spent hydrorefining catalyst (EPA Hazardous Waste No. K172). These wastes are not excluded if they exhibit one or more of the dangerous waste characteristics or criteria.

(kk) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed: Provided, That:

(i) The solid wastes disposed would meet one or more of the listing descriptions for Hazardous Waste Codes K169, K170, K171, and K172 if these wastes had been generated after the effective date of the listing (February 8, 1999);

(ii) The solid wastes described in (kk)(i) of this subsection were disposed prior to the effective date of the listing;

(iii) The leachate or gas condensate does not exhibit any characteristic or criteria of dangerous waste nor is derived from any other listed hazardous waste;

(iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under sections 307(b) or 402 of the Clean Water Act.

(v) After February 13, 2001, leachate or gas condensate will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: If the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situ-

ation (for example, shutdown of wastewater treatment system): Provided, That the impoundment has a double liner, and: Provided further, That the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this paragraph after the emergency ends.

(ll) Dredged material. Dredged material as defined in 40 CFR 232.2 that is subject to:

(i) The requirements of a permit that has been issued by the U.S. Army Corps of Engineers or an approved state under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(ii) The requirements of a permit that has been issued by the U.S. Army Corps of Engineers under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413); or

(iii) In the case of a U.S. Army Corps of Engineers civil works project, the administrative equivalent of the permits referred to in (ll)(i) and (ii) of this subsection, as provided for in U.S. Army Corps of Engineers regulations, including, for example, 33 CFR 336.1, 336.2 and 337.3.

(mm) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with 40 CFR 63.446(e). The exemption applies only to combustion at the mill generating the condensates.

(nn)(i) Controlled substances, legend drugs, and over-the-counter drugs that are state-only dangerous wastes.

(A) Controlled substances as defined and regulated by chapter 69.50 RCW (Schedule I through V);

(B) Legend drugs as defined and regulated by chapter 69.41 RCW; and

(C) Over-the-counter drugs as defined and regulated by chapter 69.60 RCW.

(ii) Controlled substances, legend drugs, and over-the-counter drugs that are held in the custody of law enforcement agencies or possessed by any licensee as defined and regulated by chapter 69.50 RCW or Title 18 RCW and authorized to possess drugs within the state of Washington are excluded, provided the drugs are disposed of by incineration in a controlled combustion unit with a heat input rate greater than 250 million British thermal units/hour, a combustion zone temperature greater than 1500 degrees Fahrenheit, or a facility permitted to incinerate municipal solid waste.

(iii) For the purposes of this exclusion the term "drugs" means:

(A) Articles recognized in the official United States pharmacopoeia or the official homeopathic pharmacopoeia of the United States;

(B) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

(C) Substances (other than food) intended to affect the structure or any function of the body of man or other animals, as defined in RCW 18.64.011(3). (Note: RCW 18.64.011(3)(d) is intentionally not included in the definition of drugs for this exclusion.)

(iv) When possessed by any licensee the term drugs used in this exclusion means finished drug products.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-100 Dangerous waste criteria. (1) Purpose. The purpose of this section is to describe methods for determining if a solid waste is a dangerous waste by the criteria set forth in this section. The dangerous waste criteria consist of:

(a) Toxic dangerous wastes; and

(b) Persistent dangerous wastes.

(2) References. The National Institute for Occupational Safety and Health's (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS), Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is adopted by reference.

(3) A person must use data which is available to him, and, when such data is inadequate for the purposes of this section, must refer to the NIOSH RTECS to determine:

(a) Toxicity data or toxic category for each known constituent in the waste;

(b) Whether or not each known constituent of the waste is a halogenated organic compound or a polycyclic aromatic hydrocarbon as defined in WAC 173-303-040.

(4) Quantity exclusion limit. A solid waste is a dangerous waste if it meets one or more of the dangerous waste criteria described in subsections (5) and (6) of this section. If a person's solid waste meets one or more of these criteria then he or she is a dangerous waste generator (and may not be considered a small quantity generator as provided in WAC 173-303-070(8)) if the quantity of the waste exceeds the following quantity exclusion limits:

(a) For toxic dangerous wastes designated as EHW (WT01), the quantity exclusion limit is 2.2 lbs. per month.

(b) For all other wastes designating under this section the quantity exclusion limit is 220 lbs. (100 kg) per month or per batch.

(5) Toxicity criteria. Except as provided in WAC 173-303-070 (4) or (5), a person must determine if a solid waste meets the toxicity criteria under this section by following either the instructions for book designation, when his knowledge of the waste is sufficient, or by testing the waste using the biological testing methods adopted under WAC 173-303-110(3).

(a) Except as provided in WAC 173-303-070(4), if a person knows only some of the toxic constituents in the waste or only some of the constituent concentrations, and if the waste is undesignated for those known constituents or concentrations, then the waste is not designated for toxicity under this subsection.

(b) Book designation procedure. A person may determine if a waste meets the toxicity criteria by following the book designation instructions as follows:

(i) A person must determine the toxic category for each known constituent. The toxic category for each constituent may be determined from available data, or by obtaining data from the NIOSH RTECS and checking this data against the toxic category table, below. If data is available for more than one of the toxicity criteria (fish, oral, inhalation, or dermal), then the data indicating severest toxicity must be used, and the most acutely toxic category must be assigned to the con-

stituent. If the NIOSH RTECS or other data sources do not agree on the same category, then the category arrived at using the NIOSH RTECS will be used to determine the toxic category. If toxicity data for a constituent cannot be found in the NIOSH RTECS, or other source reasonably available to a person, then the toxic category need not be determined for that constituent.

TOXIC CATEGORY TABLE

Toxic Category	Fish LC ₅₀ (mg/L)*	Oral (Rat) LD ₅₀ (mg/kg)	Inhalation (Rat) LC ₅₀ (mg/L)	Dermal (Rabbit) LD ₅₀ (mg/kg)
X	<0.01	<.5	<.02	< 2
A	0.01 - <0.1	.5 - <5	.02 - <.2	2 - <20
B	0.1 - <1	5 - <50	.2 - <2	20 - <200
C	1 - <10	50 - <500	2 - <20	200 - <2000
D	10 - 100	500 - 5000	20 - 200	2000 - 20,000

* The LC₅₀ data must be from an exposure period greater than or equal to twenty-four hours. LC₅₀ data from any species is acceptable, however, if salmonid LC₅₀ data is available it will supersede all other fish data. If salmonid data is unavailable but fat-head minnow data is available, it will supersede all other fish species data.

Note: "Inhalation LC₅₀" means a concentration in milligrams of substance per liter of air which, when administered to the respiratory tract for four hours or less, kills within fourteen days half of a group of ten rats each weighing between 200 and 300 grams.

(ii) A person whose waste contains one or more toxic constituents must determine the equivalent concentration for the waste from the following formula:

$$\text{Equivalent Concentration (\%)} = \frac{\sum X\%}{1} + \frac{\sum A\%}{10} + \frac{\sum B\%}{100} + \frac{\sum C\%}{1000} + \frac{\sum D\%}{10,000}$$

where $\sum(X,A,B,C, \text{ or } D)\%$ is the sum of all the concentration percentages for a particular toxic category.

Example 1. A person's waste contains: Aldrin (A Category) - .01%; Endrin (A Category) - 1%; Benzene (D Category) - 4%; Phenol (C Category) - 2%; Dinoseb (B Category) - 5%; Water (nontoxic) - 87%. The equivalent concentration (E.C.) would be:

$$\begin{aligned} \text{E.C. (\%)} &= \frac{0\%}{1} + \frac{(0.01\% + 1.0\%)}{10} + \frac{5.0\%}{100} + \frac{2.0\%}{1000} + \frac{4.0\%}{10,000} \\ &= 0\% + 0.101\% + 0.05\% + 0.002\% + 0.0004\% = 0.1534\% \end{aligned}$$

So the equivalent concentration equals 0.1534%.

(iii) A person whose waste contains toxic constituents must determine its designation according to the value of the equivalent concentration:

(A) If the equivalent concentration is less than 0.001%, the waste is not a toxic dangerous waste; or

(B) If the equivalent concentration is equal to or greater than 0.001% and less than 1.0%, the person will designate the waste as DW and assign the dangerous waste number WT02; and

(C) If the equivalent concentration is equal to or less than 0.01%, the DW may also be a special waste; or

(D) If the equivalent concentration is equal to or greater than 1.0%, the person will designate the waste as EHW and assign the dangerous waste number WT01.

Example 1. Continued. The equivalent concentration of 0.1534% (from Example 1. above) is greater than 0.001% and less than 1.0%. The waste is DW and the dangerous waste number WT02 must be assigned. Since 0.1534% is also greater than 0.01%, the waste is not a special waste.

(iv) Reserve.

(c) Designation from bioassay data. A person may determine if a waste meets the toxicity criteria by following the bioassay designation instructions of either:

(i) The DW bioassay. To determine if a waste is DW, a person must establish the toxicity category range (D category toxicity or greater toxicity) of a waste by means of the 100 mg/L acute static fish test or the 5000 mg/kg oral rat test, as described in the biological testing methods (bioassay) adopted in WAC 173-303-110(3). If data from the test indicates that the waste is DW, then the person will assign the dangerous waste number WT02. Otherwise, the waste is not regulated as toxic dangerous waste. No further testing must be done except as provided in WAC 173-303-070 (4) and (5), or if the person chooses to determine whether the waste is EHW, or in the case of state-only solid dangerous waste, if the person chooses to determine whether the waste is special waste; or

(ii) The EHW and special waste bioassay. To determine if a waste is EHW, a person must establish the toxicity category range of a waste by means of the fish bioassay at 10 mg/L or the rat bioassay at 50 mg/Kg, as described in the biological testing methods (bioassay) adopted in WAC 173-303-110(3). (NOTE: A fish bioassay at 1 mg/L corresponds with the definition of EHW, which includes toxic categories X-B. However, the fish bioassay is not reproducible at these low levels.) If data from the test indicates that the waste is EHW, then the person will assign the dangerous waste number WT01. Otherwise, the waste will be designated DW, and the person will assign the dangerous waste number WT02. A person with state-only solid waste may choose to test a waste to determine if it is special waste. Testing levels for special waste must be at 10 mg/L for the fish bioassay or 500 mg/Kg for the oral rat bioassay. No further testing must be done except as provided in WAC 173-303-070 (4) and (5), or if the person chooses to test the waste in accordance with WAC 173-303-100 (5)(c)(i) to determine if the waste is not regulated as toxic dangerous waste.

(d) If the designation acquired from book designation and bioassay data do not agree, then bioassay data will be used to designate a waste. If a waste is designated as DW or EHW following the book designation procedure, a person may test the waste by means of the biological testing methods (bioassay) adopted under WAC 173-303-110(3), using either the static acute fish or the acute oral rat method, to demonstrate that the waste is not a dangerous waste or should be designated as DW and not EHW.

(e) A waste designated as DW by toxicity criteria must be assigned the dangerous waste number of WT02. A waste

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designated as EHW by toxicity criteria must be assigned the dangerous waste number of WT01.

(6) Persistence criteria. For the purposes of this section, persistent constituents are chemical compounds which are either halogenated organic compounds (HOC), or polycyclic aromatic hydrocarbons (PAH), as defined under WAC 173-303-040. Except as provided in WAC 173-303-070 (4) or (5), a person may determine the identity and concentration of persistent constituents by either applying knowledge of the waste or by testing the waste according to WAC 173-303-110 (3)(c) *Chemical Testing Methods for Designating Dangerous Waste*, February 1998.

(a) Except as provided in WAC 173-303-070(4), if a person knows only some of the persistent constituents in the waste, or only some of the constituent concentrations, and if the waste is undesignated for those known constituents or concentrations, then the waste is not designated for persistence under this subsection.

(b) When a waste contains one or more halogenated organic compounds (HOC) for which the concentrations are known, the total halogenated organic compound concentration must be determined by summing the concentration percentages for all of the halogenated organic compounds for which the concentration is known.

Example 2. A waste contains: Carbon tetrachloride - .009%; DDT - .012%; 1,1,1 - trichloroethylene - .020%. The total halogenated organic compound concentration would be:

$$\text{Total HOC Concentration (\%)} = .009\% + .012\% + .020\% = .041\%$$

(c) A person whose waste contains polycyclic aromatic hydrocarbons (PAH) as defined in WAC 173-303-040, must determine the total PAH concentration by summing the concentration percentages of each of the polycyclic aromatic hydrocarbons for which they know the concentration.

Example 3. A person's waste contains: Chrysene - .08%; 3,4 - benzo(a)pyrene - 1.22%. The total polycyclic aromatic hydrocarbon concentration would be:

$$\text{Total PAH Concentration (\%)} = .08\% + 1.22\% = 1.30\%$$

(d) A person whose waste contains halogenated organic compounds and/or polycyclic aromatic hydrocarbons must determine its designation from the persistent dangerous waste table ((~~or persistent dangerous waste criteria graph WAC 173-303-9907~~)).

PERSISTENT DANGEROUS WASTE TABLE

If your waste contains...	At a total concentration level of...	Then your waste's designation, and waste # are...
Halogenated Organic Compounds (HOC)	0.01% to 1.0% greater than 1.0%	DW, WP02 EHW, WP01
Polycyclic Aromatic Hydrocarbons (PAH)	greater than 1.0%	EHW*, WP03

*No DW concentration level for PAH.

(7) Reserve.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-110 Sampling and testing methods. (1) Purpose. This section sets forth the testing methods to be

used to comply with the requirements of this chapter. Quality control procedures specified by the testing method or an approved equivalent method must be followed for the analytical result to be considered valid for designation. All methods and publications listed in this section are incorporated by reference.

(2) Representative samples.

(a) The methods and equipment used for obtaining representative samples of a waste will vary with the type and form of the waste. The department will consider samples collected using the sampling methods below or the most recent version of such methods for wastes with properties similar to the indicated materials, to be representative samples of the wastes:

(i) Crushed or powdered material - ASTM Standard D346-75;

(ii) Extremely viscous liquid - ASTM Standard D140-70;

(iii) Fly ash-like material - ASTM Standard D2234-86;

(iv) Soil-like material - ASTM Standard D1452-80 (Reapproved 1990);

(v) Soil or rock-like material - ASTM Standard D420-93;

(vi) Containerized liquid wastes - "COLIWASA" described in SW-846, as incorporated by reference at WAC 173-303-110 (3)(a), or the equivalent representative sampling method known as the plunger type sampler, described in ASTM D 5743-97, section 8.6; and,

(vii) Liquid waste in pits, ponds, lagoons, and similar reservoirs - "Pond Sampler" described in SW-846, as incorporated by reference at WAC 173-303-110 (3)(a).

(b) Copies of these representative sampling methods are available from the department except for the ASTM standards and the AC & D Liquid Sampler Method which can be obtained by writing to:

ASTM
1916 Race Street
Philadelphia, PA 19103.

AC & D Liquid Sampler Method

AC & D Liquid Samplers
77 Symons Street
Richland, WA 99352

(3) Test procedures. Copies of the test procedures listed in this subsection can be obtained by writing to the appropriate address below:

For copies of Department of Ecology test methods:

Attn: Test Procedures
Hazardous Waste Section
Department of Ecology
PO Box 47600
Olympia, Washington 98504-7600

For copies of SW 846, including updates, and 40 CFR Part 261:

Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402
(202) 512-1800

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For copies of ASTM methods:

ASTM
1916 Race Street
Philadelphia, PA 19103

For copies of APTI methods:

APTI
National Technical Information Service
5285 Port Royal Road
Springfield, VA 22161

The document titles and included test procedures are as follows:

(a) *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication, SW-846* (Third Edition (November 1986) as amended by Updates I (dated July 1992), II (dated September 1994), IIA (dated August 1993), IIB (dated January 1995), III (dated December 1996), and IIIA (dated April 1998)). The Third Edition of SW-846 and its Updates (document number 955-001-00000-1) are available from the Superintendent of Documents. Update IIIA is available through EPA's Methods Information Communication Exchange (MICE) Service. MICE can be contacted by phone at (703) 821-4690. Update IIIA can also be obtained by contacting the U.S. Environmental Protection Agency, Office of Solid Waste (5307W), OSW Methods Team, 401 M Street, SW, Washington, D.C. 20460. Copies of the Third Edition and all of its updates are also available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 605-6000 or (800) 553-6847;

(b) *Biological Testing Methods*, Department of Ecology Publication #80-12, the latest revision, describing procedures for:

- (i) Static acute fish toxicity test; and
- (ii) Acute oral rat toxicity test;

(c) *Chemical Testing Methods for Designating Dangerous Waste*, Department of Ecology Publication #97-407, February 1998 describing methods for testing:

- (i) Ignitability;
 - (ii) Corrosivity;
 - (iii) Reactivity;
 - (iv) Toxicity characteristic leaching procedure;
 - (v) Halogenated organic compounds; and
 - (vi) Polycyclic aromatic hydrocarbons.
- (d) Reserve;

(e)(i) The determination of Polychlorinated Biphenyls in Transformer Fluids and Waste Oils, EPA-600/4-81-045; and
(ii) Analysis of Polychlorinated Biphenyls in Mineral Insulating Oils by Gas Chromatography, ASTM Standard D 4059-86.

(f) 40 CFR Part 261 Appendix III *Chemical Analysis Test Methods*, which refers to appropriate analytical procedures to determine whether a sample contains a given toxic constituent in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication SW-846*, and 40 CFR Part 261 Appendix II, which refers to *Method 1311 Toxicity Characteristic Leaching Procedure*.

(g) The following publications for air emission standards.

(i) ASTM Standard Method for Analysis of Reformed Gas by Gas Chromatography, ASTM Standard D 1946-82.

(ii) ASTM Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High-Precision Method), ASTM Standard D 2382-83.

(iii) ASTM Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis, ASTM Standard E 169-87.

(iv) ASTM Standard Practices for General Techniques of Infrared Quantitative Analysis, ASTM Standard E 168-88.

(v) ASTM Standard Practice for Packed Column Gas Chromatography, ASTM Standard E 260-85.

(vi) ASTM Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography, ASTM Standard D 2267-88.

(vii) ASTM Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by ((~~Isoteriscope~~)) Isoteniscope, ASTM Standard D 2879-((86)) 92.

(viii) APTI Course 415: Control of Gaseous Emissions, EPA Publication EPA-450/2-81-005, December 1981.

(ix) "API Publication 2517, Third Edition," February 1989, "Evaporative Loss from External Floating-Roof Tanks," available from the American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005.

(x) "ASTM Standard Test Method for Vapor Pressure—Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteriscope," ASTM Standard D 2879-92, available from American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103.

(h) The following publications:

(i) "Flammable and Combustible Liquids Code" (1977 or 1981), available from the National Fire Protection Association, 470 Atlantic Avenue, Boston, MA 02210.

(ii) U.S. EPA, "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised," October 1992, EPA Publication No.EPA-450/R-92-019, Environmental Protection Agency, Research Triangle Park, NC.

(iii) "ASTM Standard Test Methods for Preparing Refuse-Derived Fuel (RDF) Samples for Analyses of Metals," ASTM Standard E926-88, Test Method C-Bomb, Acid Digestion Method, available from American Society for Testing Materials, 1916 Race Street, Philadelphia, PA 19103.

(iv) Method 1664, Revision A, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Nonpolar Material) by Extraction and Gravimetry. Available from NTIS, PB99-121949, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

(v) ASTM Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester, ASTM Standard D-3278-78, available from American Society for Testing and Materials.

(vi) ASTM Standard Test Methods for Flash Point by Pensky-Martens Closed Tester, ASTM Standard D-93-79 or D-93-80.

(vii) API Publication 2517, Third Edition, February 1989, "Evaporative Loss from External Floating-Roof

Tanks," available from the American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005.

(4) Substantial changes to the testing methods described above will be made only after the department has provided adequate opportunity for public review and comment on the proposed changes. The department may, at its discretion, schedule a public hearing on the proposed changes.

(5) Equivalent testing methods. Any person may request the department to approve an equivalent testing method by submitting a petition, prepared in accordance with WAC 173-303-910(2), to the department.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-140 Land disposal restrictions. (1) Purpose.

(a) The purpose of this section is to encourage the best management practices for dangerous wastes according to the priorities of RCW 70.105.150 which are, in order of priority:

- (i) Reduction;
- (ii) Recycling;
- (iii) Physical, chemical, and biological treatment;
- (iv) Incineration;
- (v) Stabilization and solidification; and
- (vi) Landfill.

(b) This section identifies dangerous wastes that are restricted from land disposal, describes requirements for restricted wastes, and defines the circumstances under which a prohibited waste may continue to be land disposed.

(c) For the purposes of this section, the term "landfill," as stated in the priorities of RCW 70.105.150, will be the same as the term "land disposal." Land disposal will be used in this section to identify the lowest waste management priority.

(2) Applicability.

The land disposal restrictions of this section apply to any person who owns or operates a dangerous waste treatment, storage, or disposal facility in Washington state and to any person who generates or transports dangerous waste.

(a) Land disposal restrictions for wastes designated in accordance with WAC 173-303-070 (3)(a)(i), (ii), and (iii) are the restrictions set forth by the Environmental Protection Agency in 40 CFR Part 268 which are incorporated by reference into this regulation and the restrictions set forth in subsections (3) through (7) of this section. The words "regional administrator" (in 40 CFR) will mean the "department," except for 40 CFR Parts 268.5 and 268.6; 268 Subpart B; ~~(and)~~ 268.42(b) and 268.44 (a) through (g). The authority for implementing these excluded CFR sections remains with the U.S. Environmental Protection Agency. The word "EPA" (in 40 CFR) means "Ecology" at 40 CFR 268.44(m). The exemption and exception provisions of subsections (3) through (7) of this section are not applicable to the federal land disposal restrictions.

(b) Land disposal restrictions for state-only dangerous waste are the restrictions set forth in subsections (3) through (7) of this section.

(3) Definitions.

When used in this section the following terms have the meaning provided in this subsection. All other terms have the meanings given under WAC 173-303-040.

(a) "Dangerous waste constituents" means those constituents listed in WAC 173-303-9905 and any other constituents which have caused a waste to be a dangerous waste under this chapter.

(b) "Land disposal" means placement in a facility or on the land with the intent of leaving the dangerous waste at closure, and includes, but is not limited to, placement for disposal purposes in a: Landfill; surface impoundment; waste pile; injection well; land treatment facility; salt dome or salt bed formation; underground cave or mine; concrete vault or bunker.

(c) "Organic/carbonaceous waste" means a dangerous waste that contains combined concentrations of greater than ten percent organic/carbonaceous constituents in the waste; organic/carbonaceous constituents are those substances that contain carbon-hydrogen, carbon-halogen, or carbon-carbon chemical bonding.

(d) "Solid acid waste" means a dangerous waste that exhibits the characteristic of low pH under the corrosivity test of WAC 173-303-090 (6)(a) (iii).

(e) "Stabilization" and "solidification" mean a technique that limits the solubility and mobility of dangerous waste constituents. Solidification immobilizes a waste through physical means and stabilization immobilizes the waste by bonding or chemically reacting with the stabilizing material.

(4) Land disposal restrictions and prohibitions. The land disposal requirements of this subsection apply to land disposal in Washington state.

(a) Disposal of extremely hazardous waste (EHW). No person may land dispose of EHW, except as provided in subsection (5) of this section, at any land disposal facility in the state. No person may land dispose of EHW at the facility established under RCW 70.105.050, except as provided by subsections (5), (6), and (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, neutralize, or otherwise process EHW to remove or reduce its harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter.

(b) Disposal of liquid waste. Special requirements for bulk and containerized liquids.

(i) Effective May 8, 1985, the placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited. (40 CFR 264.314(a) which applies prior to May 8, 1985, is incorporated by reference.)

(ii) Containers holding free liquids must not be placed in a landfill unless:

- (A) All free-standing liquid;
- (I) Has been removed by decanting, or other methods; or
- (II) Has been mixed with sorbent or stabilized (solidified) so that free-standing liquid is no longer observed; or
- (III) Has been otherwise eliminated; or
- (B) The container is very small, such as an ampule; or
- (C) The container is designed to hold free liquids for use other than storage, such as a battery or capacitor; or

(D) The container is a labpack and is disposed of in accordance with WAC 173-303-161 and this chapter.

(iii) To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following tests must be used: Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" EPA Publication SW-846 as incorporated by reference in WAC 173-303-110 (3)(a).

(iv) Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are: Materials listed or described in (b)(iv)(A) of this subsection; materials that pass one of the tests in (b)(iv)(B) of this subsection; or materials that are determined by the department to be nonbiodegradable through WAC 173-303-910.

(A) Nonbiodegradable sorbents.

(I) Inorganic minerals, other inorganic materials, and elemental carbon (e.g., aluminosilicates, clays, smectites, Fuller's earth, bentonite, calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite), vermiculites, zeolites; calcium carbonate (organic free limestone); oxides/hydroxides, alumina, lime, silica (sand), diatomaceous earth; perlite (volcanic glass); expanded volcanic rock; volcanic ash; cement kiln dust; fly ash; rice hull ash; activated charcoal/activated carbon); or

(II) High molecular weight synthetic polymers (e.g., polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene, polyurethane, polyacrylate, polynorborene, polyisobutylene, ground synthetic rubber, cross-linked allylstyrene and tertiary butyl copolymers). This does not include polymers derived from biological material or polymers specifically designed to be degradable; or

(III) Mixtures of these nonbiodegradable materials.

(B) Tests for nonbiodegradable sorbents.

(I) The sorbent material is determined to be nonbiodegradable under ASTM Method G21-70 (1984a)-Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi; or

(II) The sorbent material is determined to be nonbiodegradable under ASTM Method G22-76 (1984b)-Standard Practice for Determining Resistance of Plastics to Bacteria; or

(III) The sorbent material is determined to be nonbiodegradable under OECD (Organization for Economic Cooperation and Development) test 301B: [CO₂ Evolution (Modified Sturm Test)].

(v) Effective November 8, 1985, the placement of any liquid which is not a hazardous waste in a landfill is prohibited unless the owner or operator of such landfill demonstrates to the department, or the department determines, that:

(A) The only reasonably available alternative to the placement in such landfill is placement in a landfill or unlined surface impoundment, whether or not permitted or operating under interim status, which contains, or may reasonably be anticipated to contain, hazardous waste; and

(B) Placement in such owner or operator's landfill will not present a risk of contamination of any underground source of drinking water (as that term is defined in 40 CFR Section 144.3.)

(c) Disposal of solid acid waste. No person may land dispose solid acid waste, except as provided in subsections (5), (6), or (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, neutralize, or otherwise process these wastes to remove or reduce their harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter.

(d) Disposal of organic/carbonaceous waste.

(i) No person may land dispose organic/carbonaceous waste, except as provided in subsections (5), (6), or (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, or otherwise process these wastes to remove or reduce their harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter. Organic/carbonaceous wastes must be incinerated as a minimum management method according to the dangerous waste management priorities as defined in subsection (1)(a) of this section.

(ii) This prohibition against the land disposal of organic/carbonaceous waste does not apply to black mud generated from the caustic leach recovery of cryolite at primary aluminum smelting plants.

(iii) This prohibition against the land disposal of organic/carbonaceous waste does not apply to any person who certifies to the department that recycling, treatment and incineration facilities are not available within a radius of one thousand miles from Washington state's borders. Such certification must be sent to the department by certified mail and must include: The name, address and telephone number of the person certifying; a brief description of the organic/carbonaceous waste covered by the certification; a discussion of the efforts undertaken to identify available recycling, treatment and incineration facilities; and the signature of the person responsible for the certification and development of information used to support the certification. Records and information supporting the certification must be retained by the certifying person and must be made available to the department upon request.

A certification that has been properly submitted to the department will remain valid until the department determines that a recycling, treatment or incineration facility is available within a radius of one thousand miles from Washington state's borders and the person who submitted the certification is unable to demonstrate otherwise. A recycling, treatment or incineration facility will be considered by the department to be available if such facility: Is operating, and; can safely and legally recycle, treat or incinerate the organic/carbonaceous waste, and; has sufficient capacity to receive and handle significant amounts of the waste, and; agrees to accept the waste.

(5) Treatment in land disposal facilities. The land disposal restrictions in subsection (4) of this section do not apply to persons treating dangerous wastes in surface impoundments, waste piles, or land treatment facilities provided that such treatment is performed in accordance with the requirements of this subsection and this chapter.

(a) Surface impoundment treatment.

Liquid waste, extremely hazardous waste (EHW), solid acid waste, and organic/carbonaceous waste may be placed in surface impoundments for purposes of treatment provided

the owner/operator can demonstrate that effective treatment of the dangerous waste constituents will occur and at closure the owner/operator complies with the prohibitions and restrictions of subsection (4) of this section.

(b) Waste pile treatment.

Liquid waste, extremely hazardous waste (EHW), solid acid waste, and organic/carbonaceous waste may be placed in waste piles for purposes of treatment provided the owner/operator can demonstrate that effective treatment of dangerous waste constituents will occur and that at closure the owner/operator will be in compliance with the prohibitions and restrictions of subsection (4) of this section.

(c) Land treatment.

Liquid waste, extremely hazardous waste (EHW), and organic/carbonaceous waste may be land treated provided that the owner/operator can demonstrate that effective treatment of dangerous waste constituents will occur, and at the end of the post-closure care period the owner/operator will be in compliance with subsection (4) of this section.

(6) Case-by-case exemptions to a land disposal prohibition. Any person may petition the department for an exemption from a prohibition in subsection (4) of this section for the land disposal of a dangerous waste. The procedures to submit a petition to the department are specified in WAC 173-303-910(6). The department may deny any petition if it determines that there is a potential for dangerous waste constituents to migrate from the land disposal facility where the waste is to be placed. The department will deny any petition when exemption would result in a substantial or imminent threat to public health or the environment. The department will deny any petition when exemption would result in a violation of applicable state laws.

The department may grant an exemption from the prohibitions and restrictions of subsection (4) of this section based on the demonstrations specified in (a), (b) or (c) of this subsection.

(a) Land disposal exemption for treatment residuals. Any person may request an exemption from a land disposal prohibition in subsection (4) of this section for treatment residuals by demonstrating to the department that:

(i) The person has applied the best achievable management method to the original waste; and

(ii) Application of additional management methods to the treatment residuals would prevent the person from utilizing the best achievable management methods for the original dangerous waste; and

(iii) The land disposal of the treatment residuals does not pose a greater risk to the public health and the environment than land disposal of the original dangerous waste would pose.

(b) Economic hardship exemption. Any person may request an exemption from a prohibition in subsection (4) of this section for the land disposal of a dangerous waste by demonstrating to the department that alternative management of the dangerous waste will impose an unreasonable economic burden in relation to the threat of harm to public health and the environment. It will be solely within the discretion of the department to approve or deny the requests for exemptions based on economic hardship.

(c) Organic/carbonaceous waste exemption. Any person may request an exemption from the requirements in subsection (4) of this section by demonstrating to the department that:

(i) Alternative management methods for organic/carbonaceous waste are less protective of public health and the environment than stabilization or landfilling; or

(ii)(A) The organic/carbonaceous waste has a heat content less than 3,000 BTU/LB or contains greater than sixty-five percent water or other noncombustible moisture; and

(B) Incineration is the only management method available within a radius of one thousand miles from Washington state's border (i.e., recycling or treatment are not available).

(7) Emergency cleanup provision. The department may, on a case-by-case basis, grant an exception to the land disposal restrictions in subsection (4) of this section for an emergency cleanup where an imminent threat to public health and the environment exists. Any exception will require compliance with applicable state law and will require (consistent with the nature of the emergency and imminent threat) application of the waste management priorities of RCW 70.105.-150.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-170 Requirements for generators of dangerous waste. (1) A person is a dangerous waste generator if their solid waste is designated by the requirements of WAC 173-303-070 through 173-303-100.

(a) The generator is responsible for designating their waste as DW or EHW.

(b) The generator may request an exemption for their dangerous waste according to the procedures of WAC 173-303-072.

(2) A dangerous waste generator must notify the department and obtain an EPA/state identification number as required by WAC 173-303-060, and must comply with the requirements of WAC 173-303-170 through 173-303-230.

(3) Any generator who stores, treats, or disposes of dangerous waste on-site must perform their operations in accordance with the TSD facility requirements with the following exceptions:

(a) Generators who accumulate dangerous wastes for less than ninety days as allowed under WAC 173-303-200 or for less than one hundred eighty days as allowed under WAC 173-303-201 and 173-303-202;

(b) Generators who treat dangerous waste on-site in accumulation tanks, containers, and containment buildings provided that the generator maintains a log showing the date and amount of waste treated and complies with:

(i) The applicable requirements of WAC 173-303-200, 173-303-201, and 173-303-202; and

(ii) WAC 173-303-283(3);

(c) Generators who treat special waste on-site provided:

(i) The accumulation standards of WAC 173-303-073 (2)(a) and (b) are met;

(ii) When treated in units other than tanks or containers, the unit is designed, constructed, and operated in a manner that prevents:

(A) A release of waste and waste constituents to the environment;

(B) Endangerment of health of employees or the public;

(C) Excessive noise;

(D) Negative aesthetic impact on the use of adjacent property.

(iii) The treatment unit must also be inspected routinely for deterioration that would lead to a release and repairs must be conducted promptly.

(4) The generator must comply with the special land disposal restrictions for certain dangerous wastes in WAC 173-303-140.

(5) Persons responding to an explosives or munitions emergency in accordance with WAC 173-303-400 (2)(c)(~~(xi)~~) (xiii)(A)(IV) or 173-303-600 (3)(p)(i)(D)(~~(i)~~) or (3)(p)(iv)(~~(i)~~ or (3)(p)(xii)(D)), and WAC 173-303-800 (7)(c)(~~(i)~~) (i)(D) or (7)(~~(e)~~) (c)(i)(E) are not required to comply with the standards of WAC 173-303-170 through 173-303-230.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-200 Accumulating dangerous waste on-site. (1) A generator, not to include transporters as referenced in WAC 173-303-240(3), may accumulate dangerous waste on-site without a permit for ninety days or less after the date of generation, provided that:

(a) All such waste is shipped off-site to a designated facility or placed in an on-site facility which is permitted by the department under WAC 173-303-800 through 173-303-845 or recycled or treated on-site in ninety days or less. The department may, on a case-by-case basis, grant a maximum thirty day extension to this ninety day period if dangerous wastes must remain on-site due to unforeseen, temporary and uncontrollable circumstances. A generator who accumulates dangerous waste for more than ninety days is an operator of a storage facility and is subject to the facility requirements of this chapter and the permit requirements of this chapter as a storage facility unless he has been granted an extension to the ninety day period allowed pursuant to this subsection;

(b)(i) The waste is placed in containers and the generator complies with WAC 173-303-630 (2), (3), (4), (5), (6), (8), (9), (10), and (~~(11)~~) 40 CFR Part 265 Subparts AA, BB, and CC incorporated by reference at WAC 173-303-400 (3)(a). For container accumulation (including satellite areas as described in subsection (2) of this section), the department may require that the accumulation area include secondary containment in accordance with WAC 173-303-630(7), if the department determines that there is a potential threat to public health or the environment due to the nature of the wastes being accumulated, or due to a history of spills or releases from accumulated containers. In addition, any new container accumulation areas (but not including new satellite areas, unless required by the department) constructed or installed after September 30, 1986, must comply with the provisions of WAC 173-303-630(7); and/or

(ii) The waste is placed in tanks and the generator complies with 40 CFR Part 265 Subparts AA, BB, and CC incorporated by reference at WAC 173-303-400 (3)(a) and WAC 173-303-640 (2) through (~~(11)~~) (10), except WAC 173-303-640 (8)(c) and the second sentence of WAC 173-303-640 (8)(a). (Note: A generator, unless otherwise required to do so, does not have to prepare a closure plan, a cost estimate for closure, or provide financial responsibility for his tank system to satisfy the requirements of this section.) Such a generator is exempt from the requirements of WAC 173-303-620 and 173-303-610, except for WAC 173-303-610 (2) and (5); and/or

(iii) The waste is placed on drip pads and the generator complies with WAC 173-303-675 and maintains the following records at the facility:

(A) A description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days; and

(B) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal; and/or

(iv) The waste is placed in containment buildings and the generator complies with 40 CFR Part 265 Subpart DD, which is incorporated by reference, and the generator has placed its professional engineer certification that the building complies with the design standards specified in 40 CFR 265.1101 in the facility's operating record no later than sixty days after the date of initial operation of the unit. After February 18, 1993, PE certification will be required prior to operation of the unit. The owner or operator shall maintain the following records at the facility:

(A) A written description of procedures to ensure that each waste volume remains in the unit for no more than ninety days, a written description of the waste generation and management practices for the facility showing that they are consistent with respecting the ninety-day limit, and documentation that the procedures are complied with; or

(B) Documentation that the unit is emptied at least once every 90 days.

In addition, such a generator is exempt from all the requirements in WAC 173-303-610 and 173-303-620, except for WAC 173-303-610(2).

(c) The date upon which each period of accumulation begins is marked and clearly visible for inspection on each container;

(d) While being accumulated on site, each container and tank is labeled or marked clearly with the words "dangerous waste" or "hazardous waste." Each container or tank must also be marked with a label or sign which identifies the major risk(s) associated with the waste in the container or tank for employees, emergency response personnel and the public (Note—If there is already a system in use that performs this function in accordance with local, state, or federal regulations, then such system will be adequate). The department may also require that a sign be posted at each entrance to the accumulation area, bearing the legend, "danger—unauthorized personnel keep out," or an equivalent legend, written in English, and legible from a distance of twenty-five feet or more; and

(e) The generator complies with the requirements for facility operators contained in:

(i) WAC 173-303-330 through 173-303-360 (personnel training, preparedness and prevention, contingency plan and emergency procedures, and emergencies) except for WAC 173-303-355 (SARA Title III coordination); and

(ii) WAC 173-303-320 (1), (2)(a), (b), (d), and (3) (general inspection); and

(f) The generator complies with 40 CFR 268.7(a)(5).

(2) Satellite accumulation.

(a) A generator may accumulate as much as fifty-five gallons of dangerous waste or one quart of acutely hazardous waste per waste stream in containers at or near any point of generation where waste initially accumulates (defined as a satellite accumulation area in WAC 173-303-040). The satellite area must be under the control of the operator of the process generating the waste or secured at all times to prevent improper additions of wastes to a satellite container. Satellite accumulation is allowed without a permit provided the generator:

(i) Complies with WAC 173-303-630 (2), (4), (5) (a) and (b), (8)(a), and (9) (a) and (b); and

(ii) Complies with subsection (1)(d) of this section.

(b) When fifty-five gallons of dangerous waste or one quart of acutely hazardous waste is accumulated per waste stream, the container(s) must be marked immediately with the accumulation date and moved within three days to a designated storage or accumulation area.

(c) On a case-by-case basis the department may require the satellite area to be managed in accordance with all or some of the requirements under subsection (1) of this section, if the nature of the wastes being accumulated, a history of spills or releases from accumulated containers, or other factors are determined by the department to be a threat or potential threat to human health or the environment.

(3) For the purposes of this section, the ninety-day accumulation period begins on the date that:

(a) The generator first generates a dangerous waste; or

(b) The quantity (or aggregated quantity) of dangerous waste being accumulated by a small quantity generator first exceeds the accumulation limit for such waste (or wastes); or

(c) Fifty-five gallons of dangerous waste or one quart of acutely hazardous waste, per waste stream, is accumulated in a satellite accumulation area.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-283 Performance standards. (1) Purpose. This section provides general performance standards for designing, constructing, operating, and maintaining dangerous waste facilities.

(2) Applicability. This section applies to all dangerous waste facilities permitted under WAC 173-303-800 through 173-303-840. These general performance standards must be used to determine whether more stringent facility standards should be applied than those spelled out in WAC 173-303-280, 173-303-290 through 173-303-400 and 173-303-600 through (~~173-303-670~~) 173-303-692.

(3) Performance standards. Unless authorized by state, local, or federal laws, or unless otherwise authorized in this regulation, the owner/operator must design, construct, operate, or maintain a dangerous waste facility that to the maximum extent practical given the limits of technology prevents:

(a) Degradation of ground water quality;

(b) Degradation of air quality by open burning or other activities;

(c) Degradation of surface water quality;

(d) Destruction or impairment of flora and fauna outside the active portion of the facility;

(e) Excessive noise;

(f) Conditions that constitute a negative aesthetic impact for the public using rights of ways, or public lands, or for landowners of adjacent properties;

(g) Unstable hillsides or soils as a result of trenches, impoundments, excavations, etc.;

(h) The use of processes that do not treat, detoxify, recycle, reclaim, and recover waste material to the extent economically feasible; and

(i) Endangerment of the health of employees, or the public near the facility.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-380 Facility recordkeeping. (1) Operating record. The owner or operator of a facility must keep a written operating record at their facility. The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

(a) A description of and the quantity of each dangerous waste received or managed on-site, and the method(s) and date(s) of its treatment, storage, or disposal at the facility as required by subsection (2) of this section, recordkeeping instructions;

(b) The location of each dangerous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each dangerous waste must be recorded on a map or diagram of each cell or disposal area. For all facilities, this information must include cross-references to specific manifest document numbers, if the waste was accompanied by a manifest;

(c) Records and results of waste analyses, waste determinations (as required by Subpart CC), and trial tests required by WAC 173-303-300, General waste analysis, and by 40 CFR sections 264.1034, 264.1063, 264.1083, 265.1034, 265.1063, 265.1084, 268.4(a), and 268.7;

(d) Summary reports and details of all incidents that require implementing the contingency plan, as specified in WAC 173-303-360 (2)(k);

(e) Records and results of inspections as required by WAC 173-303-320 (2)(d), General inspection (except such information need be kept only for five years);

(f) Monitoring, testing, or analytical data, and corrective action where required by 40 CFR Part 265 Subparts F through R and sections 265.1034 (c) through (f), 265.1035, 265.1063 (d) through (i), 265.1064, and 265.1083 through 265.1090 for interim status facilities, and by WAC 173-303-630 through 173-303-695 and 40 CFR sections 264.1034 (c)

through (f), 264.1035, 264.1063 (d) through (i), 264.1064, and 264.1082 through 264.1090 for final status facilities;

(g) All closure and post-closure cost estimates required for the facility;

(h) For off-site facilities, copies of notices to generators informing them that the facility has all appropriate permits, as required by WAC 173-303-290, Required notices;

(i) Records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted pursuant to 40 CFR 268.5, a petition pursuant to 40 CFR 268.6, (~~(or a certification under 268.8)~~) and the applicable notice required by a generator under 40 CFR 268.7(a);

(j) For an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required by the generator or the owner or operator under 40 CFR 268.7 (~~(or 268.8)~~);

(k) For an on-site treatment facility, the information contained in the notice (except the manifest number), and the certification and demonstration if applicable, required by the generator or the owner or operator under 40 CFR 268.7 (~~(or 268.8)~~);

(l) For an off-site land disposal facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator of a treatment facility under 40 CFR 268.7 (~~(and 268.8, whichever is applicable)~~);

(m) For an on-site land disposal facility, the information contained in the notice required by the generator or owner or operator of a treatment facility under 40 CFR 268.7, except for the manifest number (~~(and the certification and demonstration if applicable, required under 40 CFR 268.8, whichever is applicable)~~);

(n) For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator under 40 CFR 268.7 (~~(or 268.8)~~); (~~and~~)

(o) For an on-site storage facility, the information contained in the notice (except the manifest number), and the certification and demonstration if applicable, required by the generator or the owner or operator under 40 CFR 268.7 (~~(or 268.8)~~); and

(p) Any records required under WAC 173-303-280(6).

(2) Recordkeeping instructions. This paragraph provides instructions for recording the portions of the operating record which are related to describing the types, quantities, and management of dangerous wastes at the facility. This information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility, as follows:

(a) Each dangerous waste received, treated, stored, or disposed of at the facility must be described by its common name and by its dangerous waste number(s) from WAC 173-303-080 through 173-303-104. Each listed, characteristic, and criteria waste has its own four-digit dangerous waste number. Where a dangerous waste contains more than one process waste or waste constituent the waste description must include all applicable dangerous waste numbers. If the dan-

gerous waste number is not listed, the waste description must include the process which generated the waste;

(b) The waste description must include the waste's physical form (i.e., liquid, solid, sludge, or contained gas);

(c) The estimated or manifest-reported weight, or volume and density, where applicable, of the dangerous waste must be recorded, using one of the units of measure specified in Table 1, below; and

TABLE 1

Unit of Measure	Code ¹
Gallons	G
Gallons per Hour	E
Gallons per Day	U
Liters	L
Liters per Hour	H
Liters per Day	V
Short tons (2000 lbs)	T
Short Tons per Hour	D
Metric Tons per Hour	W
Short Tons per Day	N
Metric Tons per Day	S
Pounds	P
Pounds per Hour	J
Kilograms	K
Kilograms per Hour	R
Cubic yards	Y
Cubic meters	C
Acres	B
Acres-feet	A
Hectares	Q
Hectare-meter	F
Btu's per Hour	I

Footnote: ¹Single-digit symbols are used here for data processing purposes.

(d) The method(s) (by handling code(s)) of management for each dangerous waste received or managed, and the date(s) of treatment, recycling, storage, or disposal must be recorded, using the handling code(s) specified in Table 2, below.

TABLE 2 - Handling Codes for Treatment, Storage, and Disposal Methods

Enter the handling code(s) listed below that most closely represents the technique(s) used at the facility to treat, store, or dispose of each quantity of dangerous waste received.

1. Storage
 - S01 Container (barrel, drum, etc.)
 - S02 Tank
 - S03 Waste pile
 - S04 Surface impoundment
 - S05 Drip Pad
 - S06 Containment Building (Storage)
 - S99 Other storage (specify)
2. Treatment
 - (a) Thermal Treatment
 - T06 Liquid injection incinerator
 - T07 Rotary kiln incinerator
 - T08 Fluidized bed incinerator

PERMANENT

T09 Multiple hearth incinerator
 T10 Infrared furnace incinerator
 T11 Molten salt destructor
 T12 Pyrolysis
 T13 Wet air oxidation
 T14 Calcination
 T15 Microwave discharge
 T18 Other (specify)
 (b) Chemical treatment
 T19 Absorption mound
 T20 Absorption field
 T21 Chemical fixation
 T22 Chemical oxidation
 T23 Chemical precipitation
 T24 Chemical reduction
 T25 Chlorination
 T26 Chlorinolysis
 T27 Cyanide destruction
 T28 Degradation
 T29 Detoxification
 T30 Ion exchange
 T31 Neutralization
 T32 Ozonation
 T33 Photolysis
 T34 Other (specify)
 (c) Physical treatment
 (i) Separation of components
 T35 Centrifugation
 T36 Clarification
 T37 Coagulation
 T38 Decanting
 T39 Encapsulation
 T40 Filtration
 T41 Flocculation
 T42 Flotation
 T43 Foaming
 T44 Sedimentation
 T45 Thickening
 T46 Ultrafiltration
 T47 Other (specify)
 (ii) Removal of specific components
 T48 Absorption-molecular sieve
 T49 Activated carbon
 T50 Blending
 T51 Catalysis
 T52 Crystallization
 T53 Dialysis
 T54 Distillation
 T55 Electrolysis
 T56 Electrolysis
 T57 Evaporation
 T58 High gradient magnetic separation
 T59 Leaching
 T60 Liquid ion exchange
 T61 Liquid-liquid extraction
 T62 Reverse osmosis
 T63 Solvent recovery
 T64 Stripping
 T65 Sand filter
 T66 Other (specify)

(d) Biological treatment
 T67 Activated sludge
 T68 Aerobic lagoon
 T69 Aerobic tank
 T70 Anaerobic tank
 T71 Composting
 T72 Septic tank
 T73 Spray irrigation
 T74 Thickening filter
 T75 Trickling filter
 T76 Waste stabilization pond
 T77 Other (specify)
 T78-79 (Reserved)
 (e) Boilers and industrial furnaces
 T80 Boiler
 T81 Cement kiln
 T82 Lime kiln
 T83 Aggregate kiln
 T84 Phosphate kiln
 T85 Coke oven
 T86 Blast furnace
 T87 Smelting, melting, or refining furnace
 T88 Titanium dioxide chloride process oxidation reactor
 T89 Methane reforming furnace
 T90 Pulping liquor recovery furnace
 T91 Combustion device used in the recovery of sulfur values from spent sulfuric acid
 T92 Halogen acid furnaces
 T93 Other industrial furnaces listed in WAC 173-303-040 (specify)
 (f) Other treatment
 T94 Containment building (treatment)

3. Disposal

D79 Underground injection
 D80 Landfill
 D81 Land treatment
 D82 Ocean disposal
 D83 Surface impoundment
 (to be closed as a landfill)
 D99 Other disposal (specify)

4. Miscellaneous (Subpart X)

X01 Open burning/open detonation
 X02 Mechanical processing
 X03 Thermal unit
 X04 Geologic repository
 X99 Other Subpart X (specify)

(3) Availability, retention and disposition of records.

(a) All facility records, including plans, required by this chapter must be furnished upon request, and made available at all reasonable times for inspection, by any officer, employee, or representative of the department who is designated by the director.

(b) The retention period for all facility records required under this chapter is extended automatically during the course of any unresolved enforcement action regarding the facility or as requested by the director.

(c) A copy of records of waste disposal locations and quantities under this section must be submitted to the United States EPA regional administrator, the department, and the local land use and planning authority upon closure of the facility.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-390 Facility reporting. The owner or operator of a facility is responsible for preparing and submitting the reports described in this section.

(1) Unmanifested waste reports. If a facility accepts any dangerous waste from an off-site source without an accompanying manifest or shipping paper, and if the waste is not excluded from the manifest requirements of this chapter 173-303 WAC, then the owner or operator must prepare and submit a single copy of a report to the department within fifteen days after receiving the waste. The report form and instructions in the Unmanifested Dangerous Waste Report (~~Form 6 (which may be obtained from the department)~~) must be used for this report. The report must include at least the following information:

- (a) The EPA/state identification number, name, and address of the facility;
- (b) The date the facility received the waste;
- (c) The EPA/state identification number, name, and address of the generator and the transporter, if available;
- (d) A description and the quantity of each unmanifested dangerous waste the facility received;
- (e) The method of management for each dangerous waste;
- (f) The certification signed by the owner or operator of the facility or his authorized representative; and
- (g) A brief explanation of why the waste was unmanifested, if known.

(2) Annual reports. The owner or operator of a facility that holds an active EPA/state identification number must prepare and submit a single copy of an annual report to the department by March 1 of each year. The report form and instructions in the Dangerous Waste Annual Report (which may be obtained from the department) must be used for this report. In addition, any facility which ships dangerous waste off-site must comply with the annual reporting requirements of WAC 173-303-220. The annual report must cover facility activities during the previous calendar year and must include, but is not limited to the following information:

- (a) The EPA/state identification number, name, and address of the facility;
- (b) The calendar year covered by the report;
- (c) For off-site facilities, the EPA/state identification number of each dangerous waste generator from which the facility received a dangerous waste during the year. For imported shipments, the report must give the name and address of the foreign generator;
- (d) A description and the quantity of each dangerous waste the facility received during the year. For off-site facilities, this information must be listed by EPA/state identification number of each generator;

(e) The method of treatment, storage, or disposal for each dangerous waste;

(f) The most recent closure cost estimate under WAC 173-303-620(3) (or 40 CFR 265.142 for interim status facilities), and for disposal facilities, the most recent post-closure cost estimate under WAC 173-303-620(5) (or 40 CFR 265.144 for interim status facilities); and

(g) The certification signed in accordance with the requirements of WAC 173-303-810(12).

(3) Additional reports. The owner or operator must report to the department:

- (a) Releases of dangerous wastes, fires, and explosions as specified in WAC 173-303-360 (2)(k);
- (b) Interim status ground water monitoring data, as specified in 40 CFR 265.94 (a)(2) and (b)(2);
- (c) Facility closures specified in WAC 173-303-610(6); and
- (d) As otherwise required by WAC 173-303-645 through 173-303-665, WAC 173-303-690 through 173-303-692, and WAC 173-303-400.

The owner or operator must also submit any other reports (including engineering reports, plans, and specifications) required by the department.

(4) Recordkeeping. The owner/operator of a facility must keep a copy of all unmanifested waste reports, annual reports, and any other reports submitted to the department according to the requirements of this section for a period of three years from the date the report was submitted. Note that some records must be kept until closure of the facility as otherwise required under WAC 173-303-380.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-400 Interim status facility standards.

(1) Purpose. The purpose of WAC 173-303-400 is to establish standards which define the acceptable management of dangerous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled.

(2) Applicability.

(a) Except as provided in 40 CFR 265.1080(b), the interim status standards apply to owners and operators of facilities that treat, store, transfer, and/or dispose of dangerous waste. For purposes of this section, interim status applies to all facilities that comply fully with the requirements for interim status under Section 3005(e) of the Federal Resource Conservation and Recovery Act or WAC 173-303-805. The interim status standards also apply to those owners and operators of facilities in existence on November 19, 1980, for RCRA wastes and those facilities in existence on August 9, 1982, for state only wastes who have failed to provide the required notification pursuant to WAC 173-303-060 or failed to file Part A of the permit application pursuant to WAC 173-303-805 (4) and (5). Interim status will end after final administrative disposition of the Part B permit application is completed, or may be terminated for the causes described in WAC 173-303-805(8).

(b) Interim status facilities must meet the interim status standards by November 19, 1980, except that:

(i) Interim status facilities which handle only state designated wastes (i.e., not designated by 40 CFR Part 261) must meet the interim status standards by August 9, 1982; and

(ii) Interim status facilities must comply with the additional state interim status requirements specified in subsection (3)(c)(ii), (iii) and (v), of this section, by August 9, 1982.

(c) The requirements of the interim status standards do not apply to:

(i) Persons disposing of dangerous waste subject to a permit issued under the Marine Protection, Research and Sanctuaries Act;

(ii) Reserved;

(iii) The owner or operator of a POTW who treats, stores, or disposes of dangerous wastes, provided that he has a permit by rule pursuant to the requirements of WAC 173-303-802(4);

(iv) The owner or operator of a totally enclosed treatment facility or elementary neutralization or wastewater treatment units as defined in WAC 173-303-040, provided that he has a permit by rule pursuant to the requirements of WAC 173-303-802(5);

(v) Generators accumulating waste for less than ninety days except to the extent WAC 173-303-200 provides otherwise;

(vi) The addition, by a generator, of absorbent material to waste in a container, or of waste to absorbent material in a container, provided that these actions occur at the time the waste is first placed in containers or, in the case of repackaging of previously containerized waste into new containers, at the time the waste is first placed into the new containers and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b);

(vii) The compaction or sorting, by a generator, of miscellaneous waste forms such as cans, rags, and bottles in a container, so long as the activity is solely for the purpose of reducing waste void space, and so long as these activities are conducted in a manner that protects human health and prevents any release to the environment and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b);

(viii) Generators treating dangerous waste on-site in tanks, containers, or containment buildings that are used for accumulation of such wastes provided the generator complies with the WAC 173-303-170(3);

(ix) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in WAC 173-303-040, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in 40 CFR section 268.40, Table Treatment Standards for Hazardous Wastes), or reactive (D003) waste, to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in WAC 173-303-395 (1)(a); and

(x) Any person, other than an owner or operator who is already subject to the final facility standards, who is carrying out an immediate or emergency response to contain or treat a discharge or potential discharge of a dangerous waste or hazardous substance.

(xi) Universal waste handlers and universal waste transporters (as defined in WAC 173-303-040) handling the wastes listed below. These handlers are subject to regulation under WAC 173-303-573, when handling the below listed universal wastes.

(A) Batteries as described in WAC 173-303-573(2); and

(B) Thermostats as described in WAC 173-303-573(3).

(C) Lamps as described in WAC 173-303-573(5).

(xii) WAC 173-303-578 identifies when the requirements of this section apply to the storage of military munitions classified as solid waste under WAC 173-303-578(2). The treatment and disposal of dangerous waste military munitions are subject to the applicable permitting, procedural, and technical standards in this chapter.

(xiii)(A) Except as provided in (c)(xiii)(B) of this subsection, a person engaged in treatment or containment activities during immediate response to any of the following situations:

(I) A discharge of a dangerous waste;

(II) An imminent and substantial threat of a discharge of dangerous waste;

(III) A discharge of a material that, when discharged, becomes a dangerous waste;

(IV) An immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in WAC 173-303-040.

(B) An owner or operator of a facility otherwise regulated by WAC 173-303-600 must comply with all applicable requirements of WAC 173-303-340 and 173-303-350.

(C) Any person who is covered by (c)(xiii)(A) of this section and who continues or initiates dangerous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter for those activities.

(D) In the case of an explosives or munitions emergency response, if a federal, state, tribal or local official acting within the scope of his or her official responsibilities, or an explosives or munitions emergency response specialist, determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA/state identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

(3) Standards.

(a) Interim status standards are the standards set forth by the Environmental Protection Agency in 40 CFR Part 265 Section 265.19 of Subpart B, Subparts F through R, Subpart W, Subparts AA, BB, CC (including references to 40 CFR Parts 60, 61, and 63), DD, EE, and Appendix VI, which are incorporated by reference into this regulation (including, by reference, any EPA requirements specified in those subparts

which are not otherwise explicitly described in this chapter), and:

(i) The land disposal restrictions of WAC 173-303-140; the facility requirements of WAC 173-303-280 through 173-303-440 except WAC 173-303-335; and the corrective action requirements of WAC 173-303-646;

(ii) WAC 173-303-630(3), for containers. In addition, for container storage, the department may require that the storage area include secondary containment in accordance with WAC 173-303-630(7), if the department determines that there is a potential threat to public health or the environment due to the nature of the wastes being stored, or due to a history of spills or releases from stored containers. Any new container storage areas constructed or installed after September 30, 1986, must comply with the provisions of WAC 173-303-630(7).

(iii) WAC 173-303-640 (5)(d), for tanks; and

(iv) WAC 173-303-805.

(b) For purposes of applying the interim status standards of 40 CFR Part 265 Subparts F through R, Subpart W, and Subparts AA, BB, CC, DD, and EE to the state of Washington facilities, the federal terms have (and in the case of the wording used in the financial instruments referenced in Subpart H of Part 265, must be replaced with) the following state of Washington meanings:

(i) "Regional administrator" means the "department" except for 40 CFR Parts 270.2; 270.3; 270.5; 270.10 (e)(1),(2) and (4); 270.10 (f) and (g); 270.11 (a)(3); 270.14 (b)(20); 270.32 (b)(2); and 270.51;

(ii) "Hazardous" means "dangerous" except for Subparts AA, BB, CC, and DD. These subparts apply only to hazardous waste as defined in WAC 173-303-040;

(iii) "Compliance procedure" has the meaning set forth in WAC 173-303-040, Definitions;

(iv) "EPA hazardous waste numbers" mean "dangerous waste numbers".

(c) In addition to the changes described in (b) of this subsection, the following modifications are made to interim status standards of 40 CFR Part 265 Subparts F through R, Subpart W, and Subparts AA, BB, CC, DD, and EE:

(i) The words "the effective date of these regulations" means:

(A) November 19, 1980, for facilities which manage any wastes designated by 40 CFR Part 261;

(B) For wastes which become designated by 40 CFR Part 261 subsequent to November 19, 1980, the effective date is the date on which the wastes become regulated;

(C) March 12, 1982, for facilities which manage wastes designated only by WAC 173-303-080 through 173-303-100 and not designated by 40 CFR Part 261;

(D) For wastes which become designated only by WAC 173-303-080 through 173-303-100 and not designated by 40 CFR Part 261 subsequent to March 12, 1982, the effective date is the date on which the wastes become regulated.

(ii) "Subpart N - landfills" has an additional section added which reads: "An owner/operator must not landfill an organic carcinogen or an EHW, as defined by WAC 173-303-080 through 173-303-100, except at the EHW facility at Hanford";

(iii) "Subpart R - underground injection" has an additional section which reads: "Owners and operators of wells are prohibited from disposing of EHW or an organic carcinogen designated under WAC 173-303-080 through 173-303-100";

(iv) "Subpart M - land treatment," section 265.273(b) is modified to replace the words "Part 261, Subpart D of this chapter" with "WAC 173-303-080";

(v) "Subpart F - ground water monitoring," section 265.91(c) includes the requirement that: "Ground water monitoring wells must be designed, constructed, and operated so as to prevent ground water contamination. Chapter 173-160 WAC may be used as guidance in the installation of wells";

(vi) "Subpart H - financial requirements" has an additional section which reads: "Any owner or operator who can provide financial assurances and instruments which satisfy the requirements of WAC 173-303-620 will be deemed to be in compliance with 40 CFR Part 265 Subpart H". In 40 CFR Parts 265.143(g) and 265.145(g) the following sentence does not apply to the state: "If the facilities covered by the mechanisms are in more than one Region, identical evidence of financial assurance must be submitted to, and maintained with the Regional Administrators of all such Regions." Instead, the following sentence applies: "If the facilities covered by the mechanism are in more than one state, identical evidence of financial assurance must be submitted to and maintained with the state agency regulating hazardous waste or with the appropriate regional administrator if the facility is located in an unauthorized state." In addition, the following sections and any cross-reference to these sections are not incorporated by reference: 40 CFR Parts 265.149 and 265.150; and

(vii) "Subpart J - tank systems" section 265.193(a) is modified so that the dates by which secondary containment (which meets the requirements of that section) must be provided are the same as the dates in WAC 173-303-640 (4)(a).

(viii) "Subpart J - tank systems" section 265.191(a) is modified so that the date by which an assessment of a tank system's integrity must be completed is January 12, 1990.

(ix) "Subpart G - closure and post-closure" section 265.115 is modified to read "Within 60 days of completion of closure of each dangerous waste management unit (including tank systems and container storage areas) and within 60 days of completion of final closure..." In addition, the clean-up levels for removal or decontamination set forth at WAC 173-303-610 (2)(b) apply.

(x) "Subpart B - general facility standards. References to "EPA" (etc.), means the "department" except at 40 CFR 265.11. Additionally, references to "administrator" (etc.), means the "director" except at 40 CFR 265.12(a)."

(xi) The following sections and any cross-reference to these sections are not incorporated or adopted by reference:

(A) 40 CFR Parts 260.1 (b)(4)-(6) and 260.20-22.

(B) 40 CFR Parts 264.1 (d) and (f); 265.1 (c)(4); 264.149-150 and 265.149-150; 264.301(k); and 265.430.

(C) 40 CFR Parts 268.5 and 6; 268 Subpart B; 268.42(b); and 268.44 (~~except for 268.44(h)~~) (a) through (g).

(D) 40 CFR Parts 270.1 (c)(1)(i); 270.60(b); and 270.64.

(E) 40 CFR Parts 124.1 (b)-(e); 124.4; 124.5(e); 124.9; 124.10 (a)(1)(iv); 124.12(e); 124.14(d); 124.15 (b)(2); 124.16; 124.17(b); 124.18; 124.19; and 124.21.

(F) 40 CFR Parts 2.106(b); 2.202(b); 2.205(i); 2.209 (b)-(c); 2.212-213; and 2.301-311.

(G) 40 CFR 265.110(c) (~~and~~), 40 CFR 265.118 (c)(4), 40 CFR 265.121 and 40 CFR 265.1080(e) and (f).

(xii) "Subpart EE - Hazardous waste munitions and explosives storage." The first sentence at 40 CFR 265.1202 is modified to exclude the exception for hazardous wastes managed under 261.3(d).

(4) The requirements of this section apply to owners or operators of all facilities that treat, store or dispose of hazardous waste referred to in 40 CFR Part 268, and the 40 CFR Part 268 standards are considered material conditions or requirements of the interim status standards incorporated by reference in subsection (3) of this section.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-500 Recycling requirements for state-only dangerous waste. (1) Applicability. This section applies to the recycling of state-only dangerous waste that are not regulated as hazardous wastes (defined in WAC 173-303-040) by EPA. (Also, see WAC 173-303-120 (3) and (5).)

(2) Standards.

(a) If state-only dangerous wastes are recycled in any of the ways described in WAC 173-303-505 through 173-303-525, then such recycling is subject to the respective requirements of WAC 173-303-505 through 173-303-525, except as provided in (c) of this subsection.

(b) If state-only dangerous wastes are recycled in any way not specifically described in WAC 173-303-505 through 173-303-525, then such recycling is subject to the requirements of WAC 173-303-120(4), except as provided in (c) of this subsection.

(c) Recyclers who receive state-only dangerous wastes from off-site and who store the wastes in containers or tanks may, in lieu of the provisions for storing dangerous wastes prior to recycling, comply with:

(i) WAC 173-303-060;

(ii) WAC 173-303-370 (if the dangerous waste received must be accompanied by a manifest); and

(iii) The following requirements, provided that the dangerous waste is recycled within ninety days of the date it is received by the recycler:

(A) WAC 173-303-330 through 173-303-360;

(B) WAC 173-303-630 (2), (3), (4), (5), (6), (8) and (9), for containers;

(C) WAC 173-303-640 (3), (4), (5), (6) and (7), for tanks; and

(D) WAC 173-303-630(7) for new container areas installed after September 30, 1986, and WAC 173-303-640(2) for new tanks installed after September 30, 1986.

(d) The department may require a recycler who is storing his waste under the provisions of (c) of this subsection to comply with the provisions for storing dangerous waste prior to recycling specified in WAC 173-303-505 through 173-303-525 and 173-303-120(4) if:

(i) The recycler fails to comply with the requirements of (c) of this subsection; or

(ii) The department determines, on a case-by-case basis, that the requirements of (c) of this subsection do not adequately protect public health or the environment.

(3) Relief from standards. The owner/operator of a facility recycling dangerous wastes under the provisions of this section may ask the department to provide relief from any of the applicable requirements of this section. Requests for relief must be submitted as described in (a) of this subsection. Requests for relief will be approved or denied as described in (b) of this subsection.

(a) A request for relief must be submitted by the recycler to the department in writing and must describe the standards from which the recycler is seeking relief. The request must include:

(i) The facility name, EPA/state identification number, address, telephone number, and a contact person at the facility;

(ii) The waste(s) managed at the facility and the type(s) recycling;

(iii) The specific standards from which the owner/operator seeks relief;

(iv) A description, for each standard, demonstrating:

(A) Why the owner/operator believes the standard to be unnecessary;

(B) How public health and the environment will continue to be protected if the standard is not applied to the facility; and

(C) Any evidence supporting the contention that public health and the environment will be adequately protected if the standard is not applied (e.g., test data, diagrams, experiences at similar facilities, records, reports, etc.); and

(v) The following certification, signed and dated by a person who would be authorized to sign a report under WAC 173-303-810 (12)(b):

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this request and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

The department may ask for any additional information it deems necessary, and will not consider approval of the owner's/operator's request until all necessary information has been submitted. Failure to provide any of the information required may result in the department's denying the owner's/operator's request.

(b) The department will review any requests submitted pursuant to (a) of this subsection, and based on the adequacy of the information provided in the request will approve or deny all or any part of the request. The department will notify the recycler of its decision in writing. If the department decides to approve all or part of the request and the recycler agrees with the department's decision, then the department will proceed to grant the approval as described below. No approval will be effective until the procedures described below have been completed.

(i) For facilities which are required to have a final facility permit, the department will follow the procedures for issuing (or, for facilities which already have a final facility permit, the procedures for modifying) a final facility permit, as described in WAC 173-303-806. The new or modified final facility permit will include the standards the owner/operator must meet.

(ii) For all other types of recycling facilities, the department will issue a notice of modification stating what standards will be applied. Before issuing the notice of modification, the department will provide public notice of its intent, will allow thirty days for public comment, and will hold a public hearing if there is a significant degree of public interest or there is written notice of opposition and the department receives a request for a hearing during the comment period. Notice of a public hearing will be provided at least fifteen days in advance, and the public comment period will be extended to include the date of the hearing if it will occur after the initial thirty-day comment period. Within fifteen days of the end of the public comment period the department will, based on comments received, issue, modify and issue, or deny the notice of modification.

(c) Failure to comply with the conditions and standards as stated in the permit or notice of modification issued under (b) of this subsection will form a basis for modifying or revoking the permit or notice of modification.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-505 Special requirements for recyclable materials used in a manner constituting disposal. (1) Applicability. (Also, see WAC 173-303-120(3).)

(a) This section applies to recyclable materials that are applied to or placed on the land:

(i) Without mixing with any other substance(s); or

(ii) After mixing or combining with any other substance(s). These materials will be referred to as "materials used in a manner that constitutes disposal."

(b)(i) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if the recyclable materials have undergone a chemical reaction in the course of producing the product so as to become inseparable by physical means and if such products meet the applicable treatment standards in 40 CFR Part 268 Subpart D (or applicable prohibition levels in 268.32 or RCRA section 3004(d), where no treatment standards have been established) for each recyclable material (i.e., hazardous waste) that they contain. Registered commercial fertilizers that are produced for the general public's use that contain recyclable materials also are not subject to regulation provided they meet these same treatment standards or prohibition levels for each recyclable material that they contain. For the purpose of implementation of this section, fertilizers that contain recyclable material derived from state-only waste must also meet the treatment standards in 40 CFR Part 268 Subpart D that apply to the characteristics of dangerous waste that the state-only waste exhibits. The prohibition levels for fertilizer using K061, in mg/l, are as follows: Arsenic, 5.0; Barium, 100.0;

Cadmium, 1.0; Chromium (Total), 5.0; Lead, 5.0; Mercury, 0.20; Selenium, 5.7; and Silver, 5.0. The department may recommend registration under chapter 15.54 RCW for a waste-derived fertilizer (including fertilizers that contain recyclable material) or micronutrient fertilizer: Provided, That the registrant submits the information described in (b)(i)(A) or (B) of this subsection:

(A) Initial Criteria.

(I) The applicable Land Disposal Restriction (LDR) Certification as described in 40 CFR Part 268, or toxicity characteristic leaching procedure (TCLP) data that indicate the product contains less than the maximum concentrations for TCLP metals described in WAC 173-303-090(8); and

(II) Total Halogenated Organic Compounds (HOC) test data that indicate the product contains less than 1% total HOC.

(B) Secondary Criteria.

(I) A complete description of the fertilizer manufacturing process, including the location of the manufacturing facility; and

(II) A complete list of all ingredients used in manufacturing the fertilizer and a complete description of the sources of those ingredients, including a description of the original process and location for each of those ingredients; and

(III) Evidence that any waste(s) used in manufacturing the product does not designate as dangerous waste according to procedures described in WAC 173-303-070; and

(IV) Other information as required by the department.

(ii) Anti-skid/deicing uses of slags, which are generated from high temperature metals recovery (HTMR) processing of dangerous waste K061, K062, and F006, in a manner constituting disposal are not covered by the exemption in (b)(i) of this subsection and remain subject to regulation.

(2) Recyclable materials used in a manner that constitutes disposal are dangerous wastes and are subject to the following requirements:

(a) For generators, WAC 173-303-170 through 173-303-230;

(b) For transporters, WAC 173-303-240 through 173-303-270; and

(c) For facilities that store or use dangerous wastes in a manner constituting disposal, the applicable requirements of 40 CFR Part 268 (incorporated by reference in WAC 173-303-140 (2)(a)) and 173-303-280 through 173-303-840 (except that users of such products are not subject to these standards if the products meet the requirements of subsection (1)(b) of this section).

(d) The use of waste oil, used oil, or other material that is contaminated with dioxin or any other dangerous waste for dust suppression or road treatment is prohibited.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-506 Special requirements for the recycling of spent CFC or HCFC refrigerants. (1) Applicability. (Also, see WAC 173-303-120(3).)

(a) This section applies to spent chlorofluorocarbon (CFC) and hydrochlorofluorocarbon (HCFC) refrigerants that are reclaimed or recycled. Refrigerants eligible for these

special requirements are those CFCs and HCFCs that were used as heat transfer material in a refrigeration cycle in totally enclosed heat transfer equipment and are subsequently reclaimed or recycled.

(b) Persons who generate, transport, or store spent CFC or HCFC refrigerants prior to reclamation or recycling and facilities that reclaim or recycle spent CFC or HCFC refrigerants are subject to the requirements of this section, and WAC 173-303-050, 173-303-145, and 173-303-960. Spent CFC or HCFC refrigerants that are not reclaimed or recycled are subject to all the applicable requirements of chapter 173-303 WAC. Any discharge of spent CFCs or HCFCs to the environment constitutes disposal and is subject to full regulation under chapter 173-303 WAC.

(2) Generator requirements.

(a) Persons who reclaim or recycle their spent CFC or HCFC refrigerants, either on-site or send their wastes off-site to be reclaimed or recycled, must keep records for a period of at least five years from the date of reclamation/recycling to document:

- (i) The date of shipment (if sent off-site);
- (ii) The quantity (by weight) reclaimed/recycled per shipment (when sent off-site) or batch (when recycled on-site);
- (iii) The percentage of the total amount of CFC or HCFC wastes reclaimed/recycled per shipment or batch (and the manner of disposal for the remaining CFCs or HCFCs); and
- (iv) The dates of reclamation/recycling.

(b) For CFCs or HCFCs sent off-site, the generator must obtain a signed document from the reclamation facility certifying the information in (a) of this subsection.

(3) Reclamation facility requirements.

(a) Facilities that reclaim or recycle CFC or HCFC refrigerants must comply with all the requirements of WAC 173-303-500 (except for WAC 173-303-500 (2)(c)(ii)). The applicable provisions of the following sections will also apply:

- (i) WAC 173-303-280(2), General requirements for dangerous waste management facilities, imminent hazard;
- (ii) WAC 173-303-283, Performance standards;
- (iii) WAC 173-303-290 (1) and (2), Required notices;
- (iv) WAC 173-303-380, Facility recordkeeping; except for WAC 173-303-380 (1)(c), (e), and (h);
- (v) WAC 173-303-390(3), Facility reporting;
- (vi) WAC 173-303-630(10), Use and management of containers;
- (vii) WAC 173-303-640 (1), (2), (8), and (10), Tank systems, except WAC 173-303-640 (8)(c) and the second sentence of WAC 173-303-640 (8)(a) (i.e., a recycler, unless otherwise required to do so, does not have to prepare a closure plan, a cost estimate for closure, or provide financial responsibility for his tank system to satisfy the requirements of this section).

(b) The reclamation facility must supply generators with a signed document certifying the information in subsection (2)(a) of this section.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-510 Special requirements for dangerous wastes burned for energy recovery. (1) Applicability. (Also, see WAC 173-303-120(3).)

(a) This section applies to generators, marketers, transporters, blenders, and burners of dangerous waste fuels that are to be burned for energy recovery in any boiler or industrial furnace that is not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670, except as provided by (b) of this subsection. These regulations do not apply to gas recovered from dangerous waste management activities when such gas is burned for energy recovery. Note: (This note is a reminder that all generators, transporters, and burners of federally regulated hazardous waste fuels that are to be burned for energy recovery, and all storage facility owners and operators of facilities that store dangerous waste that is burned in a boiler or industrial furnace must comply with the requirements of 40 CFR Part 266 Subpart H.)

(b) The following dangerous wastes are not subject to regulation under this section:

(i) Used oil burned for energy recovery if it is a dangerous waste because it:

(A) Exhibits a characteristic of dangerous waste identified in WAC 173-303-090; or

(B) Is designated as DW only (and not EHW) through the criteria of WAC 173-303-100(~~or~~

~~(C) Is a dangerous waste designated solely as W001).~~

Such used oil is subject to regulation under WAC 173-303-515 rather than this section.

Note: Used oil burned for energy recovery containing a listed waste (~~((unless such listed waste is only state source W001)))~~) or a waste designated as EHW through the criteria of WAC 173-303-100 (a) and (b) is subject to this section.

(ii) (Reserved.)

(2) Definitions. Any terms used in this section that are not defined below have the meanings provided in WAC 173-303-040. For the purposes of this section, the following terms have the described meanings:

(a) "Dangerous waste fuel" means dangerous waste burned or to be burned for energy recovery. Fuel produced from dangerous waste by processing, blending, or other treatment is also dangerous waste fuel.

(b) "Distributor" means persons who distribute but do not process or blend dangerous waste fuel. Distributors may broker fuel by arranging for the final disposition of the fuel. Distributors are regulated under subsection (6) of this section.

(c) "Blender" means persons who produce, process, or blend fuel from dangerous wastes. Blenders are regulated under subsection (7) of this section.

(d) "Marketer" means persons who are:

(i) Generators who market dangerous waste fuel directly to a burner. Generators are regulated under subsection (4) of this section;

(ii) Distributors, regulated under subsection (6) of this section;

(iii) Blenders, regulated under subsection (7) of this section.

(3) Prohibitions.

(a) A person may market dangerous waste fuel only:

(i) To persons, in state, who have notified the department of their dangerous waste fuel activities under WAC 173-303-060 and have an EPA/state identification number or to out-of-state marketers or burners who have notified the EPA or authorized state agency and who have an EPA/state identification number; and

(ii) When marketed to a burner, to persons who burn the fuel in boilers or industrial furnaces identified in (b) of this subsection.

(b) Dangerous waste fuel may be burned for energy recovery in the following devices only;

(i) Industrial furnaces identified in WAC 173-303-040;

(ii) Boilers, as defined in WAC 173-303-040, that are identified as follows:

(A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or

(B) Utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale.

(c) No fuel which contains any dangerous waste may be burned in any cement kiln which is located within the boundaries of any incorporated municipality with a population greater than five hundred thousand (based on the most recent census statistics) unless such kiln fully complies with regulations under this chapter that are applicable to incinerators.

(4) Standards applicable to generators of dangerous waste fuel.

(a) All generators of dangerous waste that is used as a fuel or used to produce a fuel are subject to WAC 173-303-170 through 173-303-230.

(b) Generators who are marketers. Generators are marketers if they send their waste fuel directly to a burner. Generators who are marketers must:

(i) Prohibitions. Comply with the prohibitions under subsection (3) of this subsection.

(ii) Notification. Comply with the notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Generators who have previously notified the department of their dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify their dangerous waste fuel activities.

(iii) Accumulation. Comply with accumulation requirements of WAC 173-303-200 or 173-303-201.

(iv) Storage. For generators who have interim or final status and exceed the accumulation time frames referenced in (b)(iii) of this subsection, comply with the storage provisions of:

(A) WAC 173-303-280 through 173-303-395; and

(B) WAC 173-303-800 through 173-303-840; and

(C) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through 173-303-692 for final status facilities.

(v) Required notice. Obtain, prior to initiating the first shipment of dangerous waste fuel, a one time written and signed certification notice from the burner certifying that:

(A) The burner has notified as described under subsection (3) of this subsection; and

(B) The burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection (3)(b) of this subsection.

(vi) Recordkeeping. Keep a copy of each certification notice received for at least five years from the date of the last dangerous waste fuel shipment to the burner who sent such notice.

(c) Generators who are burners also are subject to subsection (8) of this section.

(5) Standards applicable to transporters of dangerous waste fuel. Transporters of dangerous waste fuel (and dangerous waste that is used to produce a fuel) are subject to the requirements of WAC 173-303-240 through 173-303-270.

(6) Standards applicable to distributors of dangerous waste fuel.

(a) Prohibitions. The prohibitions under subsection (3) of this section;

(b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Distributors who have previously notified the department of their dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify their dangerous waste fuel activities.

(c) Storage. Distributors who store dangerous waste fuels must comply with the applicable storage provisions of:

(i) WAC 173-303-280 through 173-303-395; and

(ii) WAC 173-303-800 through 173-303-840; and

(iii) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through 173-303-692 for final status facilities;

(iv) The standards for generators in WAC 173-303-170 through 173-303-230.

(d) Off-site shipment. A distributor must meet the standards for generators in WAC 173-303-170 through 173-303-230 when the distributor initiates a shipment of dangerous waste fuel. Except that a distributor may not accumulate dangerous waste fuels under the accumulation provisions of WAC 173-303-200 or 173-303-201;

(e) Required notices.

(i) Before initiating the first shipment of dangerous waste fuel to another distributor, a blender, or a burner, a distributor must obtain a one-time written and signed certification notice from the distributor, blender, or burner certifying that:

(A) The burner, distributor, or blender has notified as described under subsection (3) of this section; and

(B) If the recipient is a burner, the burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection (3)(b) of this section.

(ii) Before accepting the first shipment of dangerous waste fuel from another distributor or blender, the distributor must provide the other distributor or blender with a one-time written and signed certification that the distributor has complied with the notification requirements described in subsection (3) of this section; and

(f) Recordkeeping. A distributor must keep a copy of each certification notice received or sent for at least five years from the date the distributor last engaged in a dangerous waste fuel marketing transaction with the person who sent or received the certification notice.

(7) Standards applicable to blenders of dangerous waste fuels.

(a) Prohibitions. The prohibitions under subsection (3) of this section.

(b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Blenders who have previously notified the department of their dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify their dangerous waste fuel activities.

(c) Facility. For tanks, containers, or other units used to hold dangerous waste prior to blending or processing; for blending or processing tanks, containers, or other units; and for tanks, containers, or other units, used to hold blended or processed fuel, blenders must comply with the applicable provisions of:

(i) WAC 173-303-280 through 173-303-395; and

(ii) WAC 173-303-800 through 173-303-840; and

(iii) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through 173-303-692 for final status facilities;

(d) Off-site shipment. The standards for generators in WAC 173-303-170 through 173-303-230 when a blender initiates a shipment of dangerous waste fuel, except that a blender may not accumulate dangerous waste fuels under the accumulation provisions of WAC 173-303-200 or 173-303-201;

(e) Required notices.

(i) Before initiating the first shipment of dangerous waste fuel to another blender, a distributor, or a burner, a blender must obtain a one-time written and signed certification notice from the blender, distributor, or burner certifying that:

(A) The burner, distributor, or blender has notified as described under subsection (3) of this section; and

(B) If the recipient is a burner, the burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection (3)(b) of this section.

(ii) Before accepting the first shipment of dangerous waste fuel from another blender or distributor, the blender must provide the other blender or distributor with a one-time written and signed certification that the blender has complied with the notification requirements described in subsection (3) of this section; and

(f) Recordkeeping. A blender must keep a copy of each certification notice received or sent for at least five years from the date the blender last engaged in a dangerous waste fuel marketing transaction with the person who sent or received the certification notice.

(8) Standards applicable to burners of dangerous waste fuel.

Owners and operators of industrial furnaces and boilers identified in subsection (3)(b) of this section must comply with:

(a) Prohibitions. The prohibitions under subsection (3) of this section;

(b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. A burner who has previously notified the department of dangerous waste management activities and obtained an EPA/state

identification number, must renotify to identify the dangerous waste fuel activities;

(c) Storage.

(i) For short term accumulation by generators who burn their dangerous waste fuel on-site, the applicable provisions of WAC 173-303-200 or 173-303-201.

(ii) For all burners who store dangerous waste fuel, the applicable storage provisions of:

(A) WAC 173-303-280 through 173-303-395;

(B) WAC 173-303-800 through 173-303-840; and

(C) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through 173-303-692 for final status facilities (the air emission requirements do not apply to burners that meet the small quantity burner exemption at 40 CFR 266.101);

(d) Required notices. Before a burner accepts the first shipment of dangerous waste fuel from a distributor, or a blender, or a generator the burner must provide the distributor, or the blender, or the generator a one-time written and signed notice certifying that:

(i) The burner has notified as described under subsection (3) of this section; and

(ii) The dangerous waste fuel will only be burned in an industrial furnace or boiler identified in subsection (3)(b) of this section.

(e) Recordkeeping. In addition to the applicable recordkeeping requirements of WAC 173-303-380, a burner must keep a copy of each certification notice sent for at least five years from the date the burner last receives dangerous waste fuel from the person who received the certification notice.

(f) Local requirements. Any person who burns dangerous waste for energy recovery must comply with air emission requirements of the local air pollution control authority (or department of ecology if no local authority with jurisdiction exists).

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-520 Special requirements for reclaiming spent lead acid battery wastes. This section applies to persons who reclaim (including regeneration) spent lead-acid batteries that are recyclable materials ("spent batteries"). (Also, see WAC 173-303-120(3).)

(1) Persons who generate, transport, or collect spent batteries, who regenerate spent batteries, or who store spent batteries but do not reclaim them (other than spent batteries that are to be regenerated) are subject only to the requirements of WAC 173-303-016 through 173-303-161 except for 173-303-060, and WAC 173-303-960 if such spent batteries are going to a battery reclaimer. Persons who reclaim spent batteries through regeneration (such as by electrolyte replacement) are not subject to 40 CFR Part 268, which is incorporated by reference at WAC 173-303-140 (2)(a).

(2) Owners and operators of battery reclaiming facilities that store spent lead acid batteries prior to reclaiming (other than spent batteries that are to be regenerated) they are subject to the following requirements:

(a) For all reclaimers, the applicable storage provisions of:

- (i) WAC 173-303-280 (2) and (3);
- (ii) WAC 173-303-282;
- (iii) WAC 173-303-283;
- (iv) WAC 173-303-290;
- (v) WAC 173-303-310 through 173-303-360;
- (vi) WAC 173-303-380;
- (vii) WAC 173-303-390 (2) and (3);
- (viii) WAC 173-303-395; and
- (ix) WAC 173-303-800 through 173-303-840.

(b) For reclaimers with interim status permits, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 CFR Part 265;

(c) For reclaimers with final facility permits, the applicable storage provisions of:

- (i) WAC 173-303-600 through 173-303-650; and
- (ii) WAC 173-303-660.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-522 Special requirements for recycling spent antifreeze. (1) Applicability. This section applies to the recycling of spent antifreeze. Antifreeze means ethylene glycol based coolant used as a heat exchange medium in motor vehicle radiators, motorized equipment, or in other industrial processes. For the purposes of this section recycling means reclamation and reuse, but not burning for energy recovery. (Also, see WAC 173-303-120(3).)

(2) Standards. Persons who generate, transport, or store spent antifreeze but do not reclaim or recycle it are subject to the requirements of WAC 173-303-050, 173-303-145, and 173-303-960 if their spent antifreeze is going to a recycler. Any discharge of spent antifreeze to the environment constitutes disposal and is subject to full regulation under this chapter.

(a) Generator requirements:

(i) Persons who reclaim or recycle their spent antifreeze on-site, or send their antifreeze off-site to be reclaimed or recycled, must keep records for a period of five years from the date of reclamation/recycling.

Proof of reclamation/recycling is either a log for on-site reclamation/recycling or an invoice or bill of lading for off-site reclamation/recycling.

(ii) Containers and tanks used to accumulate spent antifreeze must be labeled "spent antifreeze."

(iii) Spent antifreeze that is to be reclaimed can be accumulated on-site for any length of time, and in any amount.

(iv) During accumulation, spent antifreeze must be stored in a manner to prevent releases to the environment. This includes, but is not limited to, storing wastes in compatible containers, on impermeable surfaces, or in secondary containment structures.

(b) If spent antifreeze is mixed with another dangerous waste, generators are subject to the generator requirements, WAC 173-303-170 through 173-303-230.

(c) Persons who generate spent antifreeze that is not reclaimed/recycled, but is otherwise disposed, are subject to all applicable requirements of this chapter.

(3) Transporters and transfer facility requirements:

(a) Persons engaged in routine off-site transportation of spent antifreeze are required to obtain a state/EPA ID number, WAC 173-303-060, and to comply with the transporter requirements, WAC 173-303-240.

(b) If spent antifreeze is mixed with another dangerous waste, transporters are subject to the generator requirements, WAC 173-303-170 through 173-303-230.

(c) Transporters who store spent antifreeze at a transfer facility are allowed to use tanks or containers as defined in WAC 173-303-040, and store such waste for up to ten days, WAC 173-303-240((5))(6).

Transporters may store spent antifreeze at a transfer facility for longer than ten days if they meet the requirements for tank and/or container management, including secondary containment in WAC 173-303-630 through 173-303-640.

(4) Reclamation/recycling facility requirements: Owners and operators of antifreeze reclaiming/recycling facilities are subject to the conditions of WAC 173-303-120 (4)(c). These conditions apply equally to facilities whether or not twenty-four-hour storage of spent antifreeze occurs prior to reclamation.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-525 Special requirements for recyclable material utilized for precious metal recovery. (1) Applicability and requirements. (Also, see WAC 173-303-120(3).)

(a) This section applies to recyclable materials that are reclaimed to recover economically significant amounts of gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, or any combination of these.

(b) Persons who generate, transport, or store recyclable materials that are regulated under this section are subject to the following requirements:

(i) Notification requirements under WAC 173-303-060;

(ii) WAC 173-303-180 (for generators), 173-303-250 (for transporters), and 173-303-370 (for persons who store).

(c) Persons who store recycled materials that are regulated under this section must keep the following records to document that they are not accumulating these materials speculatively (as defined in WAC 173-303-016 (5)(d)(ii));

(i) Records showing the volume of these materials stored at the beginning of the calendar year;

(ii) The amount of these materials generated or received during the calendar year; and

(iii) The amount of materials remaining at the end of the calendar year.

(d) Recyclable materials that are regulated under this section that are accumulated speculatively (as defined in WAC 173-303-016 (5)(d)(ii)) are dangerous wastes and are subject to all applicable provisions of this chapter.

(2) Additional regulation of recyclable materials utilized for precious metal recovery on a case-by-case basis.

The department may decide on a case-by-case basis that persons accumulating or storing recyclable materials utilized for precious metal recovery should be regulated under WAC 173-303-120(4). The basis for this decision is that the materials are being accumulated or stored in a manner that does not

protect human health and the environment because the materials or their toxic constituents have not been adequately contained, or because the materials being accumulated or stored together are incompatible. In making this decision, the department will consider the following factors:

- (a) The types of materials accumulated or stored and the amounts accumulated or stored;
- (b) The method of accumulation or storage;
- (c) The length of time the materials have been accumulated or stored before being reclaimed;
- (d) Whether any contaminants are being released into the environment, or are likely to be so released; and
- (e) Other relevant factors.

The procedures for this decision are set forth in subsection (3) of this section.

(3) Procedures for case-by-case regulation of recyclable materials utilized for precious metal recovery.

The department will use the following procedures when determining whether to regulate recyclable materials utilized for precious metal recovery under the provisions of WAC 173-303-120(4), rather than under the provisions of subsection (1) of this section.

(a) If a generator is accumulating the waste, the department will issue a notice setting forth the factual basis for the decision and stating that the person must comply with the applicable requirements of WAC 173-303-170 and 173-303-190 through 173-303-230. The notice will become final within thirty days, unless the person served requests a public hearing to challenge the decision. Upon receiving such a request, the department will hold a public hearing. The department will provide notice of the hearing to the public and allow public participation at the hearing. The department will issue a final order after the hearing stating whether or not compliance with WAC 173-303-170 and 173-303-190 through 173-303-230 is required. The order becomes effective thirty days after service of the decision unless the department specifies a later date or unless review by the department is requested. The order may be appealed to the pollution control hearings board, in accordance with WAC 173-303-845, by any person who participated in the public hearing.

(b) If the person is accumulating the recyclable material as a storage facility, the notice will state that the person must obtain a permit in accordance with all applicable provisions of WAC 173-303-800 through 173-303-840. The owner or operator of the facility must apply for a permit within no less than sixty days and no more than six months of notice, as specified in the notice. If the owner or operator of the facility wishes to challenge the department's decision he may do so in his permit application, in a public hearing held on the draft permit, or in comments filed on the draft permit or on the notice of intent to deny the permit. The fact sheet accompanying the permit will specify the reasons for the department's determination. The question of whether the department's decision was proper will remain open for consideration during the public comment period discussed under WAC 173-303-840 (4)(d) and in any subsequent hearing.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-578 Military munitions. (1) Applicability.

(a) The rules in this section identify when military munitions become a solid waste, and, if these wastes are also dangerous under this section or WAC 173-303-016 through 173-303-100, the management standards that apply to these wastes.

(b) Unless otherwise specified in this section, all applicable requirements in this chapter apply to waste military munitions.

(2) Definition of solid waste.

(a) A military munition is not a solid waste when:

(i) Used for its intended purpose, including:

(A) Use in training military personnel or explosives and munitions emergency response specialists (including training in proper destruction of unused propellant or other munitions); or

(B) Use in research, development, testing, and evaluation of military munitions, weapons, or weapon systems; or

(C) Recovery, collection, and on-range destruction of unexploded ordnance and munitions fragments during range clearance activities at active or inactive ranges. However, "use for intended purpose" does not include the on-range disposal or burial of unexploded ordnance and contaminants when the burial is not a result of product use.

(ii) An unused munition, or component thereof, is being repaired, reused, recycled, reclaimed, disassembled, reconfigured, or otherwise subjected to materials recovery activities, unless such activities involve use constituting disposal as defined in WAC 173-303-016 (5)(a), or burning for energy recovery as defined in WAC 173-303-016 (5)(b).

(b) An unused military munition is a solid waste when any of the following occurs:

(i) The munition is abandoned by being disposed of, burned, detonated (except during intended use as specified in (a) of this subsection), incinerated, or treated prior to disposal; or

(ii) The munition is removed from storage in a military magazine or other storage area for the purpose of being disposed of, burned, or incinerated, or treated prior to disposal; or

(iii) The munition is deteriorated or damaged (for example, the integrity of the munition is compromised by cracks, leaks, or other damage) to the point that it cannot be put into serviceable condition, and cannot reasonably be recycled or used for other purposes; or

(iv) The munition has been declared a solid waste by an authorized military official.

(c) A used or fired military munition is a solid waste:

(i) When transported off range or from the site of use, where the site of use is not a range, for the purposes of storage, reclamation, treatment, disposal, or treatment prior to disposal; or

(ii) If recovered, collected, and then disposed of by burial, or landfilling either on or off a range.

(d) A used or fired military munition is a solid waste, and, therefore, is potentially subject to corrective action

under WAC 173-303-646 or imminent and substantial endangerment authorities under WAC 173-303-960, if the munition lands off-range and is not promptly rendered safe and/or retrieved. Any imminent and substantial threats associated with any remaining material must be addressed. If remedial action is infeasible, the operator of the range must maintain a record of the event for as long as any threat remains. The record must include the type of munition and its location (to the extent the location is known).

(e) Military munitions at closed or transferred ranges. Munitions discharged during military activities are discarded material (and therefore solid waste) for purposes of WAC 173-303-646 under the following circumstance:

The munition is left in place at the firing range at the time the range is closed or when the range is transferred from military control, whichever occurs first.

(3) Standards applicable to emergency responses.

Explosives and munitions emergencies involving military munitions or explosives are subject to WAC 173-303-170(5), 173-303-240(~~((6)(e))~~) (10), 173-303-400 (2)(c) (~~((xii))~~) (xiii), 173-303-600 (3)(p), and 173-303-800 (7)(c), or alternatively to WAC 173-303-804.

(4) Standards applicable to the storage of solid waste military munitions.

(a) Criteria for dangerous waste regulation of waste non-chemical military munitions in storage.

(i) Waste military munitions in storage that exhibit a dangerous waste characteristic, criteria, or are listed as dangerous waste under WAC 173-303-070 are listed or identified as a dangerous waste (and thus are subject to regulation under this chapter), unless all the following conditions are met:

(A) The waste military munitions are not chemical agents or chemical munitions.

(B) The waste military munitions must be subject to the jurisdiction of the Department of Defense Explosives Safety Board (DDESB).

(C) The waste military munitions must be stored in accordance with the DDESB storage standards applicable to waste military munitions.

(D) Within ninety days of August 12, 1997, or within ninety days of when a storage unit is first used to store waste military munitions, whichever is later, the owner or operator must notify the department of the location of any waste storage unit used to store waste military munitions for which the conditional exemption in (a)(i) of this subsection is claimed.

(E) The owner or operator must provide oral notice to the department within twenty-four hours from the time the owner or operator becomes aware of any loss or theft of the waste military munitions, or any failure to meet a condition of (a)(i) of this subsection that may endanger health or the environment. In addition, a written submission describing the circumstances must be provided within five days from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of (a)(i) of this subsection.

(F) The owner or operator must inventory the waste military munitions at least annually, must inspect the waste military munitions at least quarterly for compliance with the

conditions of (a)(i) of this subsection, and must maintain records of the findings of these inventories and inspections for at least three years.

(G) Access to the stored waste military munitions must be limited to appropriately trained and authorized personnel.

(ii) The conditional exemption in (a)(i) of this subsection from regulation as dangerous waste applies only to the storage of nonchemical waste military munitions. It does not affect the regulatory status of waste military munitions as dangerous wastes with regard to transportation, treatment or disposal.

(iii) The conditional exemption in (a)(i) of this subsection applies only so long as all of the conditions in (a)(i) of this subsection are met.

(b) Notice of termination of waste storage. The owner or operator must notify the department when a storage unit identified in (a)(i)(D) of this subsection will no longer be used to store waste military munitions.

(c) Reinstatement of conditional exemption. If any waste military munition loses its conditional exemption under (a)(i) of this subsection, an application may be filed with the department for reinstatement of the conditional exemption from dangerous waste storage regulation with respect to such munition as soon as the munition is returned to compliance with the conditions of (a)(i) of this subsection. If the department finds that reinstatement of the conditional exemption is appropriate based on factors such as the owner's or operator's provision of a satisfactory explanation of the circumstances of the violation, or a demonstration that the violations are not likely to recur, the department may reinstate the conditional exemption under (a)(i) of this subsection. If the director does not take action on the reinstatement application within sixty days after receipt of the application, then reinstatement will be deemed granted, retroactive to the date of the application. However, the department may terminate a conditional exemption reinstated by default in the preceding sentence if it finds that reinstatement is inappropriate based on factors such as the owner's or operator's failure to provide a satisfactory explanation of the circumstances of the violation, or failure to demonstrate that the violations are not likely to recur. In reinstating the conditional exemption under (a)(i) of this subsection, the department may specify additional conditions as are necessary to ensure and document proper storage to protect human health and the environment.

(d) Waste chemical munitions.

(i) Waste military munitions that are chemical agents or chemical munitions and that exhibit a hazardous waste characteristic or are listed as hazardous waste under WAC 173-303-070, are listed or identified as a hazardous waste and are subject to the applicable regulatory requirements of RCRA subtitle C and the Hazardous Waste Management Act.

(ii) Waste military munitions that are chemical agents or chemical munitions and that exhibit a hazardous waste characteristic or are listed as hazardous waste under WAC 173-303-070, are not subject to the storage prohibition in RCRA section 3004(j), codified at 40 CFR 268.50 (which is incorporated by reference at WAC 173-303-140 (2)(a)).

(e) Amendments to DDESB storage standards. The DDESB storage standards applicable to waste military munitions, referenced in subsection (4)(a)(i) of this section, are

PERMANENT

DOD 6055.9-STD ("DOD Ammunition and Explosive Safety Standards"), in effect on November 8, 1995, except as provided in the following sentence. Any amendments to the DDESB storage standards will become effective for purposes of subsection (4)(a)(i) of this section on the date the Department of Defense publishes notice in the Federal Register that the DDESB standards referenced in subsection (4)(a)(i) of this section have been amended.

(5) Standards applicable to the treatment and disposal of waste military munitions.

The treatment and disposal of dangerous waste military munitions are subject to the applicable permitting, procedural, and technical standards of this chapter.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-620 Financial requirements. (1) Applicability.

(a) The requirements of subsections (3), (4), (7), (8), (9), and (10) of this section, apply to owners and operators of all dangerous waste facilities, except as provided otherwise in this section.

(b) The requirements of subsections (5) and (6) of this section apply to owners and operators of:

- (i) Dangerous waste disposal facilities;
- (ii) Tank systems that are required under WAC 173-303-640(8) to meet the requirements of landfills;
- (iii) Miscellaneous units as specified in WAC 173-303-680(4);

(iv) Waste piles and surface impoundments to the extent that WAC 173-303-650 and 173-303-660, respectively, require that such facilities comply with this section; and

(v) Containment buildings that are required under WAC 173-303-695 to meet the requirements for landfills.

(c) States and the federal government are exempt from the requirements of this section. Operators of state or federally owned facilities are exempt from the requirements of this section, except subsections (3) and (5) of this section. Operators of facilities who are under contract with (but not owned by) the state or federal government must meet all of the requirements of this section.

(d) The director may, in an enforceable document, replace all or part of the requirements of this section with alternative requirements for financial assurance when he or she:

(i) Applies alternative requirements for ground water monitoring, closure or post-closure under WAC 173-303-610 (1)(d) or 173-303-645 (1)(e); and

(ii) Determines that it is not necessary to apply the requirements of this section because the alternative requirements will protect human health and the environment.

(2) Definitions. As used in this section, the following listed or referenced terms have the meanings given below:

(a) "Closure plan" means the plan for closure prepared in accordance with the requirements of WAC 173-303-610(3);

(b) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with subsection (3) of this section;

(c) "Current post-closure cost estimate" means the most recent of the estimates prepared in accordance with subsection (5) of this section;

(d) "Parent corporation" means a corporation which directly owns at least fifty percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation;

(e) "Post-closure plan" means the plan for post-closure care prepared in accordance with the requirements of WAC 173-303-610 (7), (8), (9), and (10);

(f) "Regional administrator" means the department;

(g) "Hazardous waste" means dangerous waste; and

(h) The additional terms listed and defined in 40 CFR 264.141 (f), (g), and (h) are incorporated by reference.

(3) Cost estimate for facility closure.

(a) The owner or operator must have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in WAC 173-303-610 (2) through (6), and applicable closure requirements in WAC 173-303-630(10), 173-303-640(5), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), 173-303-670(8), 173-303-680 (2) through (4) and 173-303-695. The closure cost estimate:

(i) Must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see WAC 173-303-610 (3)(a));

(ii) Must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in subsection (2)(d) of this section.) The owner or operator may use costs for on-site disposal if he can demonstrate that on-site disposal capacity will exist at all times over the life of the facility;

(iii) May not incorporate any salvage value that may be realized with the sale of dangerous wastes, or nondangerous wastes if applicable under WAC 173-303-610 (4)(d), facility structures or equipment, land, or other assets associated with the facility at the time of partial or final closure; and

(iv) May not incorporate a zero cost for dangerous wastes, or nondangerous wastes if applicable under WAC 173-303-610 (4)(d), that might have economic value.

(b) During the active life of the facility, the owner or operator must revise the closure cost estimate no later than thirty days after the department has approved the request to modify the closure plan, if the change in the closure plan increases the cost of closure. The revised closure cost estimate must be adjusted for inflation as specified in (c)(i) and (ii) of this subsection.

(c) During the active life of the facility, the owner or operator must adjust the closure cost estimate for inflation within sixty days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with this section. For owners and operators using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within thirty days after the close of the firm's fiscal year and before submission of updated information to the department as specified in subsection (4) of this section. The adjustment may be made by recalculating the

maximum costs of closure in current dollars, or by using an inflation factor derived from the most recent *Implicit Price Deflator for Gross National Product or Gross Domestic Product* as published by the United States Department of Commerce in its survey of current business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

(i) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

(ii) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

(d) During the operating life of the facility, the owner or operator must keep at the facility the latest closure cost estimate prepared in accordance with (a) and (b) of this subsection, and, when this estimate has been adjusted in accordance with (c) of this subsection, the latest adjusted closure cost estimate.

(4) Financial assurance for facility closure.

(a) An owner or operator of a TSD facility must establish financial assurance for closure of the facility. The owner or operator must choose from the following options or combination of options:

(i) Closure trust fund;

(ii) Surety bond guaranteeing payment into a closure trust fund;

(iii) Surety bond guaranteeing performance of closure;

(iv) Closure letter of credit;

(v) Closure insurance; or

(vi) Financial test and corporate guarantee for closure.

(b) In satisfying the requirements of financial assurance for facility closure in this subsection, the owner or operator must meet all the requirements set forth in 40 CFR 264.143 which are incorporated by reference. If the facilities covered by the mechanism are in more than one state, identical evidence of financial assurance must be submitted to and maintained with the state agency regulating hazardous waste or with the appropriate regional administrator if the facility is located in an unauthorized state.

(5) Cost estimate for post-closure monitoring and maintenance.

(a) The owner or operator of a facility subject to post-closure monitoring or maintenance requirements must have a detailed written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the applicable post-closure regulations in WAC 173-303-610 (7) through (10), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), and 173-303-680(4). The post-closure cost estimate must be based on the costs to the owner or operator of hiring a third party to conduct post-closure care activities. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in subsection (2)(d) of this section.) The post-closure cost estimate is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required by WAC 173-303-610.

(b) During the active life of the facility, the owner or operator must revise the post-closure cost estimate within thirty days after the department has approved the request to modify the post-closure plan, if the change in the post-closure plan increases the cost of post-closure care. The revised post-closure cost estimate must be adjusted for inflation as specified in (c)(i) and (ii) of this subsection.

(c) During the active life of the facility, the owner or operator must adjust the post-closure cost estimate for inflation within sixty days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with subsection (6) of this section. For owners or operators using the financial test or corporate guarantee, the post-closure cost estimate must be updated for inflation within thirty days after the close of the firm's fiscal year and before the submission of updated information to the department as specified in subsection (6) of this section. The adjustment may be made by recalculating the post-closure cost estimate in current dollars or by using an inflation factor derived from the most recent *Implicit Price Deflator for Gross National Product or Gross Domestic Product* as published by the United States Department of Commerce in its Survey of Current Business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

(i) The first adjustment is made by multiplying the post-closure cost estimate by the inflation factor. The result is the adjusted post-closure cost estimate.

(ii) Subsequent adjustments are made by multiplying the latest adjusted post-closure cost estimate by the latest inflation factor.

(d) During the operating life of the facility, the owner or operator must keep at the facility the latest post-closure cost estimate prepared in accordance with (a) and (b) of this subsection, and, when this estimate has been adjusted in accordance with (c) of this subsection, the latest adjusted post-closure cost estimate.

(6) Financial assurance for post-closure monitoring and maintenance.

(a) An owner or operator of a facility subject to post-closure monitoring or maintenance requirements must establish financial assurance for post-closure care in accordance with the approved post-closure care plan. He must choose from the following options or combination of options:

(i) Post-closure trust fund;

(ii) Surety bond guaranteeing payment into a post-closure trust fund;

(iii) Surety bond guaranteeing performance of post-closure care;

(iv) Post-closure letter of credit;

(v) Post-closure insurance; or

(vi) Financial test and corporate guarantee for post-closure care.

(b) In satisfying the requirements of financial assurance for facility post-closure care in this subsection, the owner or operator must meet all the requirements set forth in 40 CFR 264.145 which are incorporated by reference. If the facilities covered by the mechanism are in more than one state, identical evidence of financial assurance must be submitted to and

maintained with the state agency regulating hazardous waste or with the appropriate regional administrator if the facility is located in an unauthorized state.

(7) Use of a mechanism for financial assurance of both closure and post-closure care. An owner or operator may satisfy the requirements for financial assurance for both closure and post-closure care for one or more facilities by using a trust fund, surety bond, letter of credit, insurance, financial test, or corporate guarantee that meets the specifications for the mechanism in both 40 CFR 264.143 and 264.145 which are incorporated by reference. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for financial assurance of closure and of post-closure care.

(8) Liability requirements.

(a) An owner or operator of a TSD facility or a group of such facilities must demonstrate financial responsibility for bodily injury and property damages to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must meet the requirements of 40 CFR 264.147(a) which is incorporated by reference.

(b) An owner or operator of a facility with a regulated unit or units (as defined in WAC 173-303-040) or a disposal miscellaneous unit or units used to manage dangerous waste or a group of such facilities must demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must meet the requirements of 40 CFR 264.147(b), (~~264.177~~) 264.147 (f), (g), (h), (i), and (j) which are incorporated by reference.

(c) Request for variance. If an owner or operator can demonstrate to the satisfaction of the department that the levels of financial responsibility required by (a) or (b) of this subsection are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the owner or operator may obtain a variance from the department. The request for a variance must be submitted to the department as part of the application under WAC 173-303-806(4) for a facility that does not have a permit, or pursuant to the procedures for permit modification under WAC 173-303-830 for a facility that has a permit. If granted, the variance will take the form of an adjusted level of required liability coverage, such level to be based on the department's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. The department may require an owner or operator who requests a variance to provide such technical and engineering information as is deemed necessary by the department to determine a level of financial responsibility other than that required by (a) or (b) of this subsection. Any request for a variance for a permitted facility will be treated as a request for a permit modification under WAC 173-303-830.

(d) Adjustments by the department. If the department determines that the levels of financial responsibility required by (a) or (b) of this subsection are not consistent with the degree and duration of risk associated with treatment, stor-

age, or disposal at the facility or group of facilities, the department may adjust the level of financial responsibility required under (a) or (b) of this subsection as may be necessary to protect human health and the environment. This adjusted level will be based on the department's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the department determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that has no regulated units (as defined in WAC 173-303-040), it may require that the owner or operator of the facility comply with (b) of this subsection. An owner or operator must furnish to the department within a reasonable time, any information which the department requests to determine whether cause exists for such adjustments of level or type of coverage. Any adjustments of level or type of coverage for a facility that has a permit will be treated as a permit modification under WAC 173-303-830.

(e) Period of coverage. An owner or operator must continuously provide liability coverage for a facility as required by this subsection until certifications of closure of the facility, as specified in WAC 173-303-610(6), are received by the department.

(f) The following subsections are incorporated by reference: 40 CFR section (~~260.147~~) 264.147 (f), Financial test for liability coverage, (g) Guarantee for liability coverage, (h) Letter of credit for liability coverage, (i) Surety bond for liability coverage, and (j) Trust fund for liability coverage.

(9) Incapacity of owners or operators, guarantor or financial institutions.

(a) An owner or operator must notify the department by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United States Code, naming the owner or operator as debtor, within ten days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in 40 CFR 264.143(f) and 264.145(f) must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee (40 CFR 264.151(h)).

(b) An owner or operator who fulfills the requirements of 40 CFR 264.143, 264.145, or 264.147 (a) or (b) by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The owner or operator must establish other financial assurance or liability coverage within sixty days after such an event.

(10) Wording of the instruments. The financial instruments required by this section must contain the wording specified by 40 CFR 264.151 which is incorporated by reference, except that:

(a) The words "regional administrator" and "environmental protection agency" must be replaced with the words Washington state department of ecology;

(b) The words "hazardous waste" must be replaced with the words "dangerous waste";

(c) Any other words specified by the department must be changed as necessary to assure financial responsibility of the facility in accordance with the requirements of this section; and

(d) Whenever 40 CFR 264.151 requires that owners and operators notify several regional administrators of their financial obligations, the owner or operator must notify both the department and all regional administrators of regions that are affected by the owner or operator's financial assurance mechanisms.

Copies of the financial instruments with the appropriate word changes will be available from the department by June 30, 1984.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-645 Releases from regulated units. (1) Applicability.

(a)(i) Except as provided in (b) of this subsection, the regulations in this section apply to owners and operators of facilities that treat, store, or dispose of dangerous waste. The owner or operator must satisfy the requirements identified in (a)(ii) of this subsection for all wastes (or constituents thereof) contained in solid waste management units at the facility, regardless of the time at which waste was placed in such units.

(ii) All solid waste management units must comply with the requirements in WAC 173-303-646(2). Regulated units (as defined in WAC 173-303-040) must comply with the requirements of subsections (2) through (12) of this section, in lieu of WAC 173-303-646(2), for purposes of detecting, characterizing, and responding to releases to the uppermost aquifer. The corrective action financial responsibility requirements of WAC 173-303-646(2) apply to corrective action regulated units.

(b) The owner or operator's regulated unit or units are not subject to regulation for releases into the uppermost aquifer under this section if:

(i) The owner or operator is exempted under WAC 173-303-600; or

(ii) He operates a unit which the department finds:

(A) Is an engineered structure;

(B) Does not receive or contain liquid waste or waste containing free liquids;

(C) Is designed and operated to exclude liquid, precipitation, and other run-on and run-off;

(D) Has both inner and outer layers of containment enclosing the waste;

(E) Has a leak detection system built into each containment layer;

(F) The owner or operator will provide continuing operation and maintenance of these leak detection systems during the active life of the unit and the closure and post-closure care periods; and

(G) To a reasonable degree of certainty, will not allow dangerous constituents to migrate beyond the outer containment layer prior to the end of the post-closure care period.

(iii) The department finds, pursuant to WAC 173-303-655 (8)(d), that the treatment zone of a land treatment unit

does not contain levels of dangerous constituents that are above background levels of those constituents by an amount that is statistically significant, and if an unsaturated zone monitoring program meeting the requirements of WAC 173-303-655(6) has not shown a statistically significant increase in dangerous constituents below the treatment zone during the operating life of the unit. An exemption under this subsection can only relieve an owner or operator of responsibility to meet the requirements of this section during the post-closure care period; or

(iv) The department finds that there is no potential for migration of liquid from a regulated unit to the uppermost aquifer during the active life of the regulated unit (including the closure period) and the post-closure care period. This demonstration must be certified by a qualified geologist or geotechnical engineer. In order to provide an adequate margin of safety in the prediction of potential migration of liquid, the owner or operator must base any predictions made under this subsection on assumptions that maximize the rate of liquid migration.

(c) The regulations under this section apply during the active life of the regulated unit (including the closure period). After closure of the regulated unit, the regulations in this section:

(i) Do not apply if all waste, waste residues, contaminated containment system components, and contaminated subsoils are removed or decontaminated at closure in accordance with the removal or decontamination limits specified in WAC 173-303-610 (2)(b);

(ii) Apply during the post-closure care period if the owner or operator is conducting a detection monitoring program under subsection (9) of this section; and

(iii) Apply during the compliance period under subsection (7) of this section, if the owner or operator is conducting a compliance monitoring program under subsection (10) of this section, or a corrective action program under subsection (11) of this section.

(d) Regulations in this section may apply to miscellaneous units when necessary to comply with WAC 173-303-680 (2) through (4).

(e) The director may, in an enforceable document, replace all or part of the requirements of this section with alternative requirements for ground water monitoring and corrective action when he or she determines:

(i) A dangerous waste unit is situated among other solid waste management units or areas of concern, a release has occurred, and both the dangerous waste unit and one or more of the solid waste management units or areas of concern are likely to have contributed to the release; and

(ii) It is not necessary to apply the requirements of this section because the alternative requirements will protect human health and the environment.

(2) Required programs.

(a) Owners and operators subject to this section must conduct a monitoring and response program as follows:

(i) Whenever dangerous constituents under subsection (4) of this section, from a regulated unit are detected at the compliance point under subsection (6) of this section, the owner or operator must institute a compliance monitoring program under subsection (10) of this section. Detected is

defined as statistically significant evidence of contamination as described in subsection (9)(f) of this section;

(ii) Whenever the ground water protection standard under subsection (3) of this section, is exceeded, the owner or operator must institute a corrective action program under subsection (11) of this section. Exceeded is defined as statistically significant evidence of increased contamination as described in subsection (10)(h) of this section. Exceeded is defined as statistically significant evidence of contamination as described in WAC 173-303-645 (10)(d);

(iii) Whenever dangerous constituents under subsection (4) of this section, from a regulated unit exceed concentration limits under subsection (5) of this section, in ground water between the compliance point under subsection (6) of this section and the downgradient facility property boundary, the owner or operator must institute a corrective action program under subsection (11) of this section; and

(iv) In all other cases, the owner or operator must institute a detection monitoring program under subsection (9) of this section.

(b) The department will specify in the facility permit the specific elements of the monitoring and response program. The department may include one or more of the programs identified in (a) of this subsection, in the facility permit as may be necessary to protect human health and the environment and will specify the circumstances under which each of the programs will be required. In deciding whether to require the owner or operator to be prepared to institute a particular program, the department will consider the potential adverse effects on human health and the environment that might occur before final administrative action on a permit modification application to incorporate such a program could be taken.

(3) Ground water protection standard. The owner or operator must comply with conditions specified in the facility permit that are designed to ensure that dangerous constituents under subsection (4) of this section, detected in the ground water from a regulated unit do not exceed the concentration limits under subsection (5) of this section, in the uppermost aquifer underlying the waste management area beyond the point of compliance under subsection (6) of this section, during the compliance period under subsection (7) of this section. To the extent practical, the department will establish this ground water protection standard in the facility permit at the time the permit is issued. If the department determines that an established standard is not protective enough, or if the department decides that it is not practical to establish standards at the time of permit issuance, the department will establish the ground water protection standard in the facility permit when dangerous constituents have been detected in the ground water from a regulated unit.

(4) Dangerous constituents.

(a) The department will specify in the facility permit the dangerous constituents to which the ground water protection standard of subsection (3) of this section, applies. Dangerous constituents are constituents identified in 40 CFR Part 264 Appendix IX, which is adopted by reference (this list is available from the department), and any other constituents not listed there which have caused a waste to be regulated under this chapter, that may be or have been detected in ground

water in the uppermost aquifer underlying a regulated unit and that are reasonably expected to be in or derived from waste contained in a regulated unit, unless the department has excluded them under (b) of this subsection.

The department may also specify in the permit indicator parameters (e.g., specific conductance, pH, total organic carbon (TOC), total organic halogen (TOX), or heavy metals), waste constituents or reaction products as identified in the detection monitoring program under subsection (9)(a) of this section, that provide a reliable indication of the presence of dangerous constituents in the ground water.

(b) The department will exclude a 40 CFR Part 264 Appendix IX, or other identified constituent from the list of dangerous constituents specified in the facility permit if it finds that the constituent is not capable of posing a substantial present or potential hazard to human health or the environment. In deciding whether to grant an exemption, the department will consider the following:

(i) Potential adverse effects on ground water quality, considering:

(A) The physical and chemical characteristics of the waste in the regulated unit, including its potential for migration;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity of ground water and the direction of ground water flow;

(D) The proximity and withdrawal rates of ground water users;

(E) The current and future uses of ground water in the area;

(F) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground water quality;

(G) The potential for health risks caused by human exposure to waste constituents;

(H) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(I) The persistence and permanence of the potential adverse effects;

(ii) Potential adverse effects on hydraulically-connected surface water quality, considering:

(A) The volume and physical and chemical characteristics of the waste in the regulated unit;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity and quality of ground water, and the direction of ground water flow;

(D) The patterns of rainfall in the region;

(E) The proximity of the regulated unit to surface waters;

(F) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

(G) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;

(H) The potential for health risks caused by human exposure to waste constituents;

(I) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(J) The persistence and permanence of the potential adverse effects; and

(iii) Any identification of underground sources of drinking water and exempted aquifers made pursuant to chapter 90.48 RCW, chapter 270, Laws of 1983, and other applicable state laws and regulations.

(5) Concentration limits.

(a) The department will specify in the facility permit concentration limits in the ground water for dangerous constituents established under subsection (4) of this section. The concentration of a dangerous constituent:

(i) Must not exceed the background level of that constituent in the ground water at the time that limit is specified in the permit; or

(ii) For any of the constituents listed in Table 1 of this subsection, must not exceed the respective value given in that table if the background level of the constituent is below the value given in Table 1; or

(iii) Must not exceed an alternate limit established by the department under (b) of this subsection.

Table 1.
Maximum Concentration of Constituents
for Ground Water Protection

Constituent	Maximum Concentration ¹
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium	0.05
Lead	0.05
Mercury	0.002
Selenium	0.01
Silver	0.05
Endrin	0.0002
Lindane	0.004
Methoxychlor	0.1
Toxaphene	0.005
2,4-D	0.1m
2,4,5-TP Silvex	0.01

¹ Milligrams per liter.

(b) The department will establish an alternate concentration limit for a dangerous constituent if it finds that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the alternate

concentration limit is not exceeded. In establishing alternate concentration limits, the department will consider the same factors listed in subsection (4)(b)(i) through (iii) of this section.

(6) Point of compliance.

(a) The department will specify in the facility permit the point of compliance at which the ground water protection standard of subsection (3) of this section, applies and at which monitoring must be conducted. The point of compliance is a vertical surface located at the hydraulically down-gradient limit of the waste management area that extends down into the uppermost aquifer underlying the regulated units. Alternatively, the point of compliance may be any closer points identified by the department at the time the permit is issued, considering the risks of the facility, the wastes and constituents managed there, the potential for waste constituents to have already migrated past the alternate compliance point, and the potential threats to ground and surface waters.

(b) The waste management area is the limit projected in the horizontal plane of the area on which waste will be placed during the active life of a regulated unit. The waste management area includes horizontal space taken up by any liner, dike, or other barrier designed to contain waste in a regulated unit. If the facility contains more than one regulated unit, the waste management area is described by an imaginary line circumscribing the several regulated units.

(7) Compliance period.

(a) The department will specify in the facility permit the compliance period during which the ground water protection standard of subsection (3) of this section applies. The compliance period is the number of years equal to the active life of the waste management area (including any waste management activity prior to permitting, and the closure period).

(b) The compliance period begins when the owner or operator initiates a compliance monitoring program meeting the requirements of subsection (10) of this section.

(c) If the owner or operator is engaged in a corrective action program at the end of the compliance period specified in (a) of this subsection, the compliance period is extended until the owner or operator can demonstrate that the ground water protection standard of subsection (3) of this section, has not been exceeded for a period of three consecutive years.

(8) General ground water monitoring requirements.

The owner or operator must comply with the requirements of this subsection for any ground water monitoring program developed to satisfy subsections (9), (10), or (11) of this section.

(a) The ground water monitoring system must consist of a sufficient number of wells, installed at appropriate locations and depths to yield ground water samples from the uppermost aquifer that:

(i) Represent the quality of background water that has not been affected by leakage from a regulated unit;

(A) A determination of background quality may include sampling of wells that are not hydraulically upgradient of the waste management area where:

(I) Hydrogeologic conditions do not allow the owner or operator to determine what wells are hydraulically upgradient; and

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(II) Sampling at other wells will provide an indication of background ground water quality that is representative or more representative than that provided by the upgradient wells; and

(ii) Represent the quality of ground water passing the point of compliance.

(iii) Allow for the detection of contamination when dangerous waste or dangerous constituents have migrated from the waste management area to the uppermost aquifer.

(b) If a facility contains more than one regulated unit, separate ground water monitoring systems are not required for each regulated unit, provided that provisions for sampling the ground water in the uppermost aquifer will enable detection and measurement at the compliance point of dangerous constituents from the regulated units that have entered the ground water in the uppermost aquifer.

(c) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must allow collection of representative ground water samples. Wells must be constructed in such a manner as to prevent contamination of the samples, the sampled strata, and between aquifers and water bearing strata. Wells must meet the requirements set forth in Parts 1 and 3 of chapter 173-160 WAC, "Minimum standards for construction and maintenance of wells."

(d) The ground water monitoring program must include at a minimum, procedures and techniques for:

- (i) Decontamination of drilling and sampling equipment;
- (ii) Sample collection;
- (iii) Sample preservation and shipment;
- (iv) Analytical procedures and quality assurance; and
- (v) Chain of custody control.

(e) The ground water monitoring program must include consistent sampling and analytical methods that ensure reliable ground water sampling, accurately measure dangerous constituents and indicator parameters in ground water samples, and provide a reliable indication of ground water quality below the waste management area.

(f) The ground water monitoring program must include a determination of the ground water surface elevation each time ground water is sampled.

(g) In detection monitoring or where appropriate in compliance monitoring, data on each dangerous constituent specified in the permit will be collected from background wells and wells at the compliance point(s). The number and kinds of samples collected to establish background must be appropriate for the form of statistical test employed, following generally accepted statistical principles. The sample size must be as large as necessary to ensure with reasonable confidence that a contaminant release to ground water from a facility will be detected. The owner or operator will determine an appropriate sampling procedure and interval for each hazardous constituent listed in the facility permit which will be specified in the unit permit upon approval by the department. This sampling procedure will be:

(i) A sequence of at least four samples, taken at an interval that assures, to the greatest extent technically feasible, that an independent sample is obtained, by reference to the uppermost aquifer's effective porosity, hydraulic conductiv-

ity and hydraulic gradient, and the fate and transport characteristics of the potential contaminants; or

(ii) An alternate sampling procedure proposed by the owner or operator and approved by the department.

(h) The owner or operator will specify one of the following statistical methods to be used in evaluating ground water monitoring data for each hazardous constituent which, upon approval by the department, will be specified in the unit permit. The statistical test chosen must be conducted separately for each dangerous constituent in each well. Where practical quantification limits (pql's) are used in any of the following statistical procedures to comply with (i)(v) of this subsection, the pql must be proposed by the owner or operator and approved by the department. Use of any of the following statistical methods must be protective of human health and the environment and must comply with the performance standards outlined in (i) of this subsection.

(i) A parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent.

(ii) An analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent.

(iii) A tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background data, and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit.

(iv) A control chart approach that gives control limits for each constituent.

(v) Another statistical test method submitted by the owner or operator and approved by the department.

(i) Any statistical method chosen under (h) of this subsection for specification in the unit permit must comply with the following performance standards, as appropriate:

(i) The statistical method used to evaluate ground water monitoring data must be appropriate for the distribution of chemical parameters or dangerous constituents. If the distribution of the chemical parameters or dangerous constituents is shown by the owner or operator to be inappropriate for a normal theory test, then the data should be transformed or a distribution-free theory test should be used. If the distributions for the constituents differ, more than one statistical method may be needed.

(ii) If an individual well comparison procedure is used to compare an individual compliance well constituent concentration with background constituent concentrations or a ground water protection standard, the test must be done at a Type I error level no less than 0.01 for each testing period. If a multiple comparisons procedure is used, the Type I experiment wise error rate for each testing period must be no less than 0.05; however, the Type I error of no less than 0.01 for individual well comparisons must be maintained. This per-

formance standard does not apply to tolerance intervals, prediction intervals, or control charts.

(iii) If a control chart approach is used to evaluate ground water monitoring data, the specific type of control chart and its associated parameter values must be proposed by the owner or operator and approved by the department if it finds it to be protective of human health and the environment.

(iv) If a tolerance interval or a prediction interval is used to evaluate ground water monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval must contain, must be proposed by the owner or operator and approved by the department if it finds these parameters to be protective of human health and the environment. These parameters will be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each constituent of concern.

(v) The statistical method must account for data below the limit of detection with one or more statistical procedures that are protective of human health and the environment. Any practical quantification limit (pql) approved by the department under (h) of this subsection that is used in the statistical method must be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility.

(vi) If necessary, the statistical method must include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

(j) Ground water monitoring data collected in accordance with (g) of this subsection including actual levels of constituents must be maintained in the facility operating record. The department will specify in the permit when the data must be submitted for review.

(9) Detection monitoring program. An owner or operator required to establish a detection monitoring program under this subsection must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must monitor for indicator parameters (e.g., pH, specific conductance, total organic carbon (TOC), total organic halogen (TOX), or heavy metals), waste constituents, or reaction products that provide a reliable indication of the presence of dangerous constituents in ground water. The department will specify the parameters or constituents to be monitored in the facility permit, after considering the following factors:

(i) The types, quantities, and concentrations of constituents in wastes managed at the regulated unit;

(ii) The mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the waste management area;

(iii) The detectability of indicator parameters, waste constituents, and reaction products in ground water; and

(iv) The concentrations or values and coefficients of variation of proposed monitoring parameters or constituents in the ground water background.

(b) The owner or operator must install a ground water monitoring system at the compliance point, as specified under subsection (6) of this section. The ground water moni-

toring system must comply with subsection (8)(a)(ii), (b), and (c) of this section.

(c) The owner or operator must conduct a ground water monitoring program for each chemical parameter and dangerous constituent specified in the permit pursuant to (a) of this subsection in accordance with subsection (8)(g) of this section. The owner or operator must maintain a record of ground water analytical data as measured and in a form necessary for the determination of statistical significance under subsection (8)(h) of this section.

(d) The department will specify the frequencies for collecting samples and conducting statistical tests to determine whether there is statistically significant evidence of contamination for any parameter or dangerous constituent specified in the permit under (a) of this subsection in accordance with subsection (8)(g) of this section. A sequence of at least four samples from each well (background and compliance wells) must be collected at least semiannually during detection monitoring.

(e) The owner or operator must determine the ground water flow rate and direction in the uppermost aquifer at least annually.

(f) The owner or operator must determine whether there is statistically significant evidence of contamination for any chemical parameter or dangerous constituent specified in the permit pursuant to (a) of this subsection at a frequency specified under (d) of this subsection.

(i) In determining whether statistically significant evidence of contamination exists, the owner or operator must use the method(s) specified in the permit under subsection (8)(h) of this section. These method(s) must compare data collected at the compliance point(s) to the background ground water quality data.

(ii) The owner or operator must determine whether there is statistically significant evidence of contamination at each monitoring well as the compliance point within a reasonable period of time after completion of sampling. The department will specify in the facility permit what period of time is reasonable after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground water samples.

(g) If the owner or operator determines pursuant to (f) of this subsection that there is statistically significant evidence of contamination for chemical parameters or dangerous constituents specified pursuant to (a) of this subsection at any monitoring well at the compliance point, he or she must:

(i) Notify the department of this finding in writing within seven days. The notification must indicate what chemical parameters or dangerous constituents have shown statistically significant evidence of contamination;

(ii) Immediately sample the ground water in all monitoring wells and determine whether constituents in the list of Appendix IX of 40 CFR Part 264 (which is adopted by reference) are present, and if so, in what concentration.

(iii) For any Appendix IX compounds found in the analysis pursuant to (g)(ii) of this subsection, the owner or operator may resample within one month and repeat the analysis for those compounds detected. If the results of the second analysis confirm the initial results, then these constituents will form the basis for compliance monitoring. If the owner

or operator does not resample for the compounds found pursuant to (g)(ii) of this subsection, the dangerous constituents found during this initial Appendix IX analysis will form the basis for compliance monitoring.

(iv) Within ninety days, submit to the department an application for a permit modification to establish a compliance monitoring program meeting the requirements of subsection (10) of this section. The application must include the following information:

(A) An identification of the concentration or any Appendix IX constituent detected in the ground water at each monitoring well at the compliance point;

(B) Any proposed changes to the ground water monitoring system at the facility necessary to meet the requirements of subsection (10) of this section;

(C) Any proposed additions or changes to the monitoring frequency, sampling and analysis procedures or methods, or statistical methods used at the facility necessary to meet the requirements of subsection (10) of this section;

(D) For each dangerous constituent detected at the compliance point, a proposed concentration limit under subsection (5)(a)(i) or (ii) of this section, or a notice of intent to seek an alternate concentration limit under subsection (5)(b) of this section; and

(v) Within one hundred eighty days, submit to the department:

(A) All data necessary to justify an alternate concentration limit sought under subsection (5)(b) of this section; and

(B) An engineering feasibility plan for a corrective action program necessary to meet the requirement of subsection (11) of this section unless:

(I) All dangerous constituents identified under (g)(ii) of this subsection are listed in Table I of subsection (5) of this section and their concentrations do not exceed the respective values given in that Table; or

(II) The owner or operator has sought an alternate concentration limit under subsection (5)(b) of this section for every dangerous constituent identified under (g)(ii) of this subsection.

(vi) If the owner or operator determines, pursuant to (f) of this subsection, that there is a statistically significant difference for chemical parameters or dangerous constituents specified pursuant to (a) of this subsection at any monitoring well at the compliance point, he or she may demonstrate that a source other than a regulated unit caused the contamination or that the detection is an artifact caused by an error in sampling, analysis, or statistical evaluation or natural variation in the ground water. The owner operator may make a demonstration under this subsection in addition to, or in lieu of, submitting a permit modification application under (g)(iv) of this subsection; however, the owner or operator is not relieved of the requirement to submit a permit modification application within the time specified in (g)(iv) of this subsection unless the demonstration made under this subsection successfully shows that a source other than a regulated unit caused the increase, or that the increase resulted from error in sampling, analysis, or evaluation. In making a demonstration under this subsection, the owner or operator must:

(A) Notify the department in writing within seven days of determining statistically significant evidence of contami-

nation at the compliance point that he intends to make a demonstration under this subsection;

(B) Within ninety days, submit a report to the department which demonstrates that a source other than a regulated unit caused the contamination or that the contamination resulted from error in sampling, analysis, or evaluation;

(C) Within ninety days, submit to the department an application for a permit modification to make any appropriate changes to the detection monitoring program facility; and

(D) Continue to monitor in accordance with the detection monitoring program established under this section.

(h) If the owner or operator determines that the detection monitoring program no longer satisfies the requirements of this section, he or she must, within ninety days, submit an application for a permit modification to make any appropriate changes to the program.

(10) Compliance monitoring program. An owner or operator required to establish a compliance monitoring program under this section must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must monitor the ground water to determine whether regulated units are in compliance with the ground water protection standard under subsection (3) of this section. The department will specify the ground water protection standard in the facility permit, including:

(i) A list of the dangerous constituents and parameters identified under subsection (4) of this section;

(ii) Concentration limits under subsection (5) of this section for each of those dangerous constituents and parameters;

(iii) The compliance point under subsection (6) of this section; and

(iv) The compliance period under subsection (7) of this section.

(b) The owner or operator must install a ground water monitoring system at the compliance point as specified under subsection (6) of this section. The ground water monitoring system must comply with subsection (8)(a)(ii), (b), and (c) of this section.

(c) The department will specify the sampling procedures and statistical methods appropriate for the constituents and the facility, consistent with subsection (8)(g) and (h) of this section.

(i) The owner or operator must conduct a sampling program for each chemical parameter or dangerous constituent in accordance with subsection (8)(g) of this section.

(ii) The owner or operator must record ground water analytical data as measured and in form necessary for the determination of statistical significance under subsection (8)(h) of this section for the compliance period of the facility.

(d) The owner or operator must determine whether there is statistically significant evidence of increased contamination for any chemical parameter or dangerous constituent specified in the permit, pursuant to (a) of this subsection, at a frequency specified under (f) of this subsection.

(i) In determining whether statistically significant evidence of increased contamination exists, the owner or operator must use the method(s) specified in the permit under subsection (8)(h) of this section. The method(s) must compare data collected at the compliance point(s) to a concentration

limit developed in accordance with subsection (5) of this section.

(ii) The owner or operator must determine whether there is statistically significant evidence of increased contamination at each monitoring well at the compliance point within a reasonable time period after completion of sampling. The department will specify that time period in the facility permit, after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground water samples.

(e) The owner or operator must determine the rate and direction of ground water flow in the uppermost aquifer at least annually.

(f) The department will specify the frequencies for collecting samples and conducting statistical tests to determine statistically significant evidence of increased contamination in accordance with subsection (8)(g) of this section. A sequence of at least four samples from each well (background and compliance wells) must be collected at least semiannually during the compliance period of the facility.

(g) The owner or operator must analyze samples from all monitoring wells at the compliance point for all constituents contained in Appendix IX of Part 264 at least annually to determine whether additional dangerous constituents are present in the uppermost aquifer and, if so, at what concentration, pursuant to procedures in (f) of this subsection. If the owner or operator finds Appendix IX constituents in the ground water that are not already identified in the permit as monitoring constituents, the owner or operator may resample within one month and repeat the Appendix IX analysis. If the second analysis confirms the presence of new constituents, the owner or operator must report the concentration of these additional constituents to the department within seven days after the completion of the second analysis and add them to the monitoring list. If the owner or operator chooses not to resample, then he or she must report the concentrations of these additional constituents to the department within seven days after completion of the initial analysis and add them to the monitoring list. If the owner or operator determines, pursuant to (d) of this subsection, that any concentration limits under subsection (5) of this section are being exceeded at any monitoring well at the point of compliance, he must:

(i) Notify the department of this finding in writing within seven days. The notification must indicate what concentration limits have been exceeded;

(ii) Submit to the department an application for a permit modification to establish a corrective action program meeting the requirements of subsection (11) of this section, within ninety days, or within sixty days if an engineering feasibility study has been previously submitted to the department under subsection (9)(h)(v) of this section. For regulated units managing EHW, time frames of sixty days and forty-five days, respectively will apply. However, if the department finds that the full extent of the ninety/sixty-day or the sixty/forty-five-day time periods will increase the likelihood to cause a threat to public health, or the environment, it can at its discretion reduce their duration. In specifying shorter limits, the department will consider the following factors:

(A) The physical and chemical characteristics of the dangerous constituents and parameters in the ground water;

(B) The hydrogeological characteristics of the facility and of the surrounding land;

(C) The rate of movement and direction of flow of the affected ground water;

(D) The proximity to and withdrawal rates of ground water users downgradient; and

(E) The current and future uses of ground water in the concerned area; and

(iii) The application must at a minimum include the following information:

(A) A detailed description of corrective actions that will achieve compliance with the ground water protection standard specified in the permit; and

(B) A plan for a ground water monitoring program that will demonstrate the effectiveness of the corrective action.

(h) Reserved.

(i) If the owner or operator determines, pursuant to (d) of this subsection, that the ground water concentration limits under this section are being exceeded at any monitoring well at the point of compliance, he may demonstrate that a source other than a regulated unit caused the contamination or that the detection is an artifact caused by an error in sampling, analysis, or statistical evaluation or natural variation in the ground water. In making a demonstration under this subsection, the owner or operator must:

(i) Notify the department in writing within seven days that he intends to make a demonstration under this subsection;

(ii) Within forty-five days, submit a report to the department which demonstrates that a source other than a regulated unit caused the standard to be exceeded or that the apparent noncompliance with the standards resulted from error in sampling, analysis, or evaluation;

(iii) Within forty-five days, submit to the department an application for a permit modification to make appropriate changes to the compliance monitoring program at the facility; and

(iv) Continue to monitor in accord with the compliance monitoring program established under this section.

(j) If the owner or operator determines that the compliance monitoring program no longer satisfies the requirements of this section, he must, within forty-five days, submit an application for a permit modification to make any appropriate changes to the program.

(11) Corrective action program. An owner or operator required to establish a corrective action program under this section must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must take corrective action to ensure that regulated units are in compliance with the ground water protection standard under subsection (3) of this section. The department will specify the ground water protection standard in the facility permit, including:

(i) A list of the dangerous constituents and parameters identified under subsection (4) of this section;

(ii) Concentration limits under subsection (5) of this section, for each of those dangerous constituents and parameters;

(iii) The compliance point under subsection (6) of this section; and

(iv) The compliance period under subsection (7) of this section.

(b) The owner or operator must implement a corrective action program that prevents dangerous constituents and parameters from exceeding their respective concentration limits at the compliance point by removing the dangerous waste constituents and parameters or treating them in place. The permit will specify the specific measures that will be taken.

(c) The owner or operator must begin corrective action within a reasonable time period after the ground water protection standard is exceeded. The department will specify that time period in the facility permit. If a facility permit includes a corrective action program in addition to a compliance monitoring program, the permit will specify when the corrective action will begin and such a requirement will operate in lieu of subsection (10)(i)(ii) of this section.

(d) In conjunction with a corrective action program, the owner or operator must establish and implement a ground water monitoring program to demonstrate the effectiveness of the corrective action program. Such a monitoring program may be based on the requirements for a compliance monitoring program under subsection (10) of this section, and must be as effective as that program in determining compliance with the ground water protection standard under subsection (3) of this section, and in determining the success of a corrective action program under (e) of this subsection, where appropriate.

(e) In addition to the other requirements of this section, the owner or operator must conduct a corrective action program to remove or treat in place any dangerous constituents or parameters under subsection (4) of this section, that exceed concentration limits under subsection (5) of this section, in ground water between the compliance point under subsection (6) of this section, and the downgradient facility property boundary; and beyond the facility boundary, where necessary to protect human health and the environment, unless the owner or operator demonstrates to the satisfaction of the department that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action. The owner/operator is not relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where off-site access is denied. On-site measures to address such releases will be determined on a case-by-case basis. For a facility seeking or required to have a permit, the corrective action measures to be taken must be specified in the permit.

(i) Corrective action measures under this subsection must be initiated at the effective date of the modified permit and completed without time delays considering the extent of contamination.

(ii) Corrective action measures under this subsection may be terminated once the concentration of dangerous constituents and parameters under subsection (4) of this section, is reduced to levels below their respective concentration limits under subsection (5) of this section.

(f) The owner or operator must continue corrective action measures during the compliance period to the extent necessary to ensure that the ground water protection standard is not exceeded. If the owner or operator is conducting cor-

rective action at the end of the compliance period, he must continue that corrective action for as long as necessary to achieve compliance with the ground water protection standard. The owner or operator may terminate corrective action measures taken beyond the period equal to the active life of the waste management area (including the closure period) if he can demonstrate, based on data from the ground water monitoring program under (d) of this subsection, that the ground water protection standard of subsection (3) of this section, has not been exceeded for a period of three consecutive years.

(g) The owner or operator must report in writing to the department on the effectiveness of the corrective action program. The owner or operator must submit these reports semi-annually.

(h) If the owner or operator determines that the corrective action program no longer satisfies the requirements of this section, he must, within forty-five days, submit an application for a permit modification to make any appropriate changes to the program.

(12) Use of the Model Toxics Control Act.

(a) The department may require the owner/operator of a facility to fulfill his corrective action responsibilities under WAC 173-303-645 using an enforceable action issued pursuant to the Model Toxics Control Act, as amended, (chapter 70.105D RCW) and its implementing regulations.

(b) Corrective action requirements imposed by an action issued pursuant to the Model Toxics Control Act will be in compliance with the requirements of WAC 173-303-645 and the requirements of chapter 173-303 WAC to the extent required by RCW 70.105D.030 (2)(d) and WAC 173-340-710.

(c) In the case of facilities seeking or required to have a permit under the provisions of this chapter the department will incorporate corrective action requirements imposed pursuant to the Model Toxics Control Act into permits at the time of permit issuance. Such incorporation will in no way affect the timing or scope of review of the Model Toxics Control Act action.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-646 Corrective action. (1) Purpose and applicability.

(a) The provisions of this section establish requirements for corrective action for releases of dangerous wastes and dangerous constituents including releases from solid waste management units.

(b) The provisions of this section apply to facilities seeking or required to have a permit to treat, store, recycle or dispose of dangerous waste.

(c) The provisions of this section do not apply to cleanup-only facilities.

(d) For purposes of this section, dangerous constituent means any constituent identified in WAC 173-303-9905 or 40 CFR Part 264 Appendix IX, any constituent that caused a waste to be listed as a dangerous waste or to exhibit a dangerous characteristic under this chapter or to meet a dangerous waste criteria under this chapter, and any constituent that is

within the meaning of "hazardous substance" under RCW 70.105D.020(7).

(2) Requirements.

(a) The owner or operator of a facility must institute corrective action as necessary to protect human health and the environment for all releases of dangerous wastes and dangerous constituents, including releases from all solid waste management units at the facility. Corrective action is required regardless of the time at which waste was managed at the facility or placed in such units and regardless of whether such facilities or units were intended for the management of solid or dangerous waste. Assurances of financial responsibility for such corrective action must be provided.

(b) The owner/operator must implement corrective actions beyond the facility property boundary, where necessary to protect human health and the environment. Additionally, as necessary to protect human health and the environment, the department may require the owner/operator to implement on site measures to address releases which have migrated beyond the facility boundary. Assurances of financial responsibility for such corrective action must be provided.

(c) In the case of a facility seeking or required to have a permit under the provisions of chapter 173-303 WAC, corrective action must be specified in the permit. The permit will contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completion of such corrective action.

(d) At a minimum, corrective actions must be consistent with the following requirements of chapter 173-340 WAC.

(i) As necessary to select a cleanup action consistent with WAC 173-340-360, 173-340-350, state remedial investigation and feasibility study. Information that is adequate to support selection of a cleanup action consistent with WAC 173-340-360 but was developed under a different authority (for example, as part of closure under WAC 173-303-610 or as part of a federally overseen cleanup) may be used.

(ii) WAC 173-340-360, selection of cleanup actions.

(iii) WAC 173-340-400, cleanup actions.

(iv) WAC 173-340-410, compliance monitoring requirements.

(v) WAC 173-340-420, periodic site reviews.

(vi) WAC 173-340-440, institutional controls.

(vii) WAC 173-340-700 through 173-340-760, cleanup standards.

(3) Use of the Model Toxics Control Act.

(a) The department may require the owner/operator of a facility to fulfill his corrective action responsibilities under subsection (2) of this section using an enforceable action issued pursuant to the Model Toxics Control Act, as amended, (chapter 70.105D RCW) and its implementing regulations.

(b) Corrective action requirements imposed by the department in an action issued pursuant to the Model Toxics Control Act will be in compliance with the requirements of subsection (2) of this section and the requirements of chapter 173-303 WAC to the extent required by RCW 70.105D.030(2)(d) and WAC 173-340-710.

(c) In the case of facilities seeking or required to have a permit under the provisions of this chapter the department will incorporate corrective action requirements imposed pursuant to the Model Toxics Control Act into permits at the time of permit issuance. Such incorporation will in no way affect the timing or scope of review of the Model Toxics Control Act action.

(4) Corrective action management unit (CAMU).

(a) In accordance with the requirements of this subsection, the director may designate an area at a facility as a corrective action management unit for the purpose of treating, storing or disposing of remediation waste that originates at the same facility in order to implement remedies under this section or to implement other cleanup actions. Placement of dangerous remediation waste into or within a CAMU does not constitute land disposal of dangerous waste. Consolidation or placement of dangerous remediation waste into or within a CAMU does not constitute creation of a unit subject to minimum technology requirements.

(b) Designation of a CAMU will not in any way affect the department's existing authorities, including authority under chapter 70.105D RCW, to address clean-up levels, media-specific points of compliance, or other remedy selection decisions.

(c) Designation of a CAMU will not in any way affect the timing or scope of review of any actions taken under the Model Toxics Control Act pursuant to subsection (3) of this section to fulfill the corrective action requirements of subsection (2) of this section or the corrective action requirements of WAC 173-303-645.

(5) Designation of a corrective action management unit.

(a) When designating a CAMU, the director will do so in accordance with subsection (4) of this section, and the following:

(i) The CAMU will facilitate the implementation of reliable, effective, protective, and cost-effective remedies;

(ii) Waste management activities associated with the CAMU will not create unacceptable risks to humans or the environment resulting from exposure to dangerous wastes or dangerous constituents;

(iii) The CAMU will include uncontaminated areas of the facility only if including such areas for the purposes of managing remediation wastes is more protective than management of such wastes at contaminated areas of the facility;

(iv) Areas within the CAMU where wastes remain in place after closure of the CAMU, will be managed and contained so as to minimize future releases of dangerous wastes and dangerous constituents to the extent practicable;

(v) When appropriate and practicable, the CAMU will expedite the timing of remedial activity implementation;

(vi) The CAMU will enable the use, when appropriate, of treatment technologies (including innovative technologies) to enhance the long-term effectiveness of remedial actions by reducing the toxicity, mobility, or volume of wastes that will remain in place after closure of the CAMU; and

(vii) The CAMU will, to the extent practicable, minimize the land area of the facility upon which wastes will remain in place after closure of the CAMU.

(b) When designating a CAMU, the director will specify requirements for the CAMU including the following:

(i) The areal configuration of the CAMU;

(ii) Requirements for remediation waste management within the CAMU including specification of applicable design, operation, and closure requirements;

(iii) Requirements for ground water and/or vadose zone monitoring that are sufficient to:

(A) Continue to detect and to characterize the nature, extent, concentration, direction, and movement of existing releases of dangerous waste and dangerous constituents in ground water from sources located within the CAMU; and

(B) Detect and subsequently characterize releases of dangerous waste and dangerous constituents to ground water that may occur from areas of the CAMU in which wastes will remain in place after CAMU closure.

(iv) Requirements for closure that will minimize the need for further maintenance of the CAMU and will include, as appropriate and deemed necessary by the director, the following:

(A) Requirements for excavation, removal, treatment, and/or containment of wastes;

(B) For areas in which wastes will remain after closure of the CAMU, requirements for capping of such areas; and

(C) Requirements for removal and decontamination of equipment, devices, and structures used in remediation waste management activities within the CAMU.

(c) In establishing closure requirements for CAMUs under (b)(iv) of this subsection the director will consider the following factors:

(i) CAMU characteristics;

(ii) Volume of wastes which will remain in place after CAMU closure;

(iii) Potential for releases from the CAMU;

(iv) Physical and chemical characteristics of the waste;

(v) Hydrological and other relevant environmental conditions at the facility which may influence the migration of any potential or actual releases in and/or from the CAMU; and

(vi) Potential for exposure of humans and environmental receptors if releases were to occur at or from the CAMU.

(d) The director will, for areas of the CAMU in which wastes will remain in place after CAMU closure, specify post-closure requirements to control, minimize, or eliminate, to the extent necessary to protect human health and the environment, post-closure escape of dangerous waste, dangerous constituents, leachate, contaminated runoff, and dangerous waste decomposition products to the ground, to ground waters, to surface waters, and to the atmosphere. Such post-closure requirements will include, as necessary to protect human health and the environment, monitoring and maintenance activities and the frequency with which such activities will be performed to ensure the integrity of any cap, final cover, or other containment system.

(e) The owner/operator of a facility must provide sufficient information to enable the director to designate a CAMU in accordance with the criteria in subsections (4), (5)(a) through (d), and (6) of this section.

(f) The director will document the rationale for designating CAMUs and will make such documentation available to the public.

(g) Incorporation of the designation of and requirements for a CAMU into a existing permit must be approved by the director according to the procedures for agency initiated permit modifications under WAC 173-303-830(3), or according to the permit modification procedures of WAC 173-303-830(4).

(6) Incorporation of a regulated unit within a CAMU.

(a) The director may designate a regulated unit (as defined in WAC 173-303-040) as a CAMU, or may incorporate a regulated unit into a CAMU, if:

(i) The regulated unit is closed or closing, meaning it has begun the closure process under WAC 173-303-610 or 173-303-400; and

(ii) Inclusion of the regulated unit will enhance implementation of effective, protective and reliable remedial actions at the facility.

(b) The requirements of WAC 173-303-610, 173-303-620, 173-303-645, and the unit specific requirements of WAC 173-303-650 through 173-303-680 that applied to the regulated unit will continue to apply to the portion of the CAMU into which the regulated unit was incorporated.

(7) Temporary units (TUs).

(a) In accordance with the requirements of this subsection, the director may designate a tank or container storage area at a facility as a temporary unit for the purpose of treating or storing remediation waste that originates at the same facility in order to implement remedies under this section or to implement other cleanup actions. The director may replace the design, operating and closure standards applicable to dangerous waste tank and container treatment and storage units under this chapter with alternative requirements that protect human health and the environment.

(b) Any temporary unit to which alternative requirements are applied in accordance with (a) of this subsection will be:

(i) Located within the facility boundary; and

(ii) Used only for treatment or storage of remediation wastes managed pursuant to implementation of the corrective action requirements of subsection (2) of this section at the facility.

(c) In establishing standards to be applied to a temporary unit, the director will consider the following factors:

(i) Length of time unit will be in operation;

(ii) Type of unit;

(iii) Volumes of wastes to be managed;

(iv) Physical and chemical characteristics of the wastes to be managed in the unit;

(v) Potential for releases from the unit;

(vi) Hydrogeological and other relevant environmental conditions at the facility which may influence the migration of any potential releases; and

(vii) Potential for exposure of humans and environmental receptors if releases were to occur from the unit.

(d) The director will specify the length of time, not to exceed one year, a temporary unit will be allowed to operate. The director will also specify design, operating, and closure requirements for the temporary unit.

(e) The director may extend the operating period of a temporary unit for up to one additional year, provided the director determines that:

(i) Continued operation of the unit will not pose a threat to human health and the environment; and

(ii) Continued operation of the unit is necessary to ensure timely and efficient implementation of remedial actions at the facility.

(f) Incorporation of the designation of and requirements for a temporary unit or a time extension for a temporary unit into an existing permit will be:

(i) Approved in accordance with the procedures for agency-initiated permit modifications under WAC 173-303-830(3); or

(ii) Requested by the owner or operator as a Class II modification according to the procedures under WAC 173-303-830(4).

(g) The director will document the rationale for designating a temporary unit and for granting time extensions for temporary units and will make such documentation available to the public.

(8) Staging piles. The requirements for staging piles in 40 CFR Part 264.554 are incorporated by reference. The word "director" in 40 CFR means "department."

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-690 Air emission standards for process vents. (1) Applicability.

(a) The regulations in this section apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes.

(b) Except for 40 CFR 264.1034(d) and (e), this section applies to process vents associated with distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations that manage hazardous wastes with organic concentrations of at least 10 ppmw, if these operations are conducted in one of the following:

(i) A unit that is subject to the permitting requirements of WAC 173-303-800 through 173-303-840; or

(ii) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of WAC 173-303-200(1) (i.e., a hazardous waste recycling unit that is not a ninety-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of WAC 173-303-800 through 173-303-840; or

(iii) A unit that is exempt from permitting under the provisions of WAC 173-303-200(1) (i.e., a "ninety-day" tank or container) and is not a recycling unit under the provisions of WAC 173-303-120.

(c) For the owner and operator of a facility subject to this section and who received a final hazardous waste permit prior to December 6, 1996, the requirements of this section must be incorporated into the permit when the permit is reissued in accordance with the requirements of WAC 173-303-840(8) or reviewed in accordance with the requirements of WAC 173-303-806(11). Until such date when the owner and operator receives a final permit incorporating the requirements of

this section, the owner and operator is subject to the requirements of 40 CFR 265 Subpart AA.

Note: The requirements of 40 CFR Parts 264.1032 through 264.1036 apply to process vents on hazardous waste recycling units previously exempt under WAC 173-303-120 (4)(d). Other exemptions under WAC 173-303-071 and 173-303-600(2) are not affected by these requirements.

(d) The requirements of this section do not apply to the process vents at a facility where the facility owner or operator certifies that all of the process vents that would otherwise be subject to this section are equipped with and operating air emission controls in accordance with the process vent requirements of an applicable Clean Air Act regulation codified under 40 CFR Part 60, Part 61, or Part 63. The documentation of compliance under regulations at 40 CFR Part 60, Part 61, or Part 63 must be kept with, or made readily available with, the facility operating record.

(2) 40 CFR 264.1031 through 1036 (Subpart AA) is incorporated by reference.

Note: Where the incorporated language refers to 264.1030, refer to subsection (1) of this section. Where the incorporated language refers to Part 270, refer to WAC 173-303-800 through 173-303-840.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-691 Air emission standards for equipment leaks. (1) Applicability.

(a) The regulations in this section apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes.

(b) Except as provided in 40 CFR 264.1064(k), this section applies to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that are managed in one of the following:

(i) A unit that is subject to the permitting requirements of WAC 173-303-800 through 173-303-840; or

(ii) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of WAC 173-303-200(1) (i.e., a hazardous waste recycling unit that is not a "ninety-day" tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of WAC 173-303-800 through 173-303-840; or

(iii) A unit that is exempt from permitting under the provisions of WAC 173-303-200(1) (i.e., a "ninety-day" tank or container) and is not a recycling unit under the provisions of WAC 173-303-120.

(c) ~~((#))~~ For the owner or operator of ~~((equipment))~~ a facility subject to the requirements of 40 CFR 264.1052 through 264.1065 ~~((has))~~ and who received a final permit under section 3005 of RCRA prior to December ~~((21, 1990))~~ 6, 1996, the requirements of 40 CFR 264.1052 through 264.1065 must be incorporated into the permit when the permit is reissued under WAC 173-303-840(8) or reviewed under WAC 173-303-806(11). Until such date when the owner or operator receives a final permit incorporating the requirements of 40 CFR 264.1052 through 264.1065, the owner or operator is subject to the requirements of 40 CFR

265, Subpart BB, which is incorporated by reference at WAC 173-303-400 (3)(a).

(d) Each piece of equipment to which this section applies must be marked in such a manner that it can be distinguished readily from other pieces of equipment.

(e) Equipment that is in vacuum service is excluded from the requirements of 40 CFR 264.1052 to 264.1060 if it is identified as required in 40 CFR 264.1064 (g)(5).

(f) Equipment that contains or contacts hazardous waste with an organic concentration of at least ten percent by weight for less than three hundred hours per calendar year is excluded from the requirements of 40 CFR Parts 264.1052 through 264.1060 if it is identified, as required in 40 CFR Part 264.1064 (g)(6).

Note: The requirements of 40 CFR Parts 264.1052 through 264.1065 apply to equipment associated with hazardous waste recycling units previously exempt under WAC 173-303-120 (4)(d). Other exemptions under WAC 173-303-071 and 173-303-600(2) are not affected by these requirements.

(2) 40 CFR 264.1051 through 1065 (Subpart BB) is incorporated by reference.

Note: Where the incorporated language refers to 264.1050, refer to WAC 173-303-691. Where the incorporated language refers to Part 270, refer to WAC 173-303-800 through 173-303-840.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-692 Air emission standards for tanks, surface impoundments, and containers. (1) Applicability.

(a) The requirements of 40 CFR Part 264 Subpart CC apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste in tanks, surface impoundments, or containers subject to either WAC 173-303-630, 173-303-640, or 173-303-650 except as WAC 173-303-600 and (b) of this subsection provide otherwise.

(b) The requirements of 40 CFR Part 264 Subpart CC do not apply to the following waste management units at the facility:

(i) A waste management unit that holds hazardous waste placed in the unit before December 6, 1996, and in which no hazardous waste is added to the unit on or after December 6, 1996.

(ii) A container that has a design capacity less than or equal to 0.1 m³.

(iii) A tank in which an owner or operator has stopped adding hazardous waste and the owner or operator has begun implementing or completed closure pursuant to an approved closure plan.

(iv) A surface impoundment in which an owner or operator has stopped adding hazardous waste (except to implement an approved closure plan) and the owner or operator has begun implementing or completed closure pursuant to an approved closure plan.

(v) A waste management unit that is used solely for on-site treatment or storage of hazardous waste that is placed in the unit as a result of implementing remedial activities required under the corrective action authorities of WAC 173-303-646, or RCRA section 3008(h), or CERCLA authorities.

(vi) A waste management unit that is used solely for the management of radioactive mixed waste in accordance with all applicable regulations under the authority of the Atomic Energy Act and the Nuclear Waste Policy Act.

(vii) A hazardous waste management unit that the owner or operator certifies is equipped with and operating air emission controls in accordance with the requirements of an applicable Clean Air Act regulation codified under 40 CFR Parts 60, 61, or 63. For the purpose of complying with this paragraph, a tank for which the air emission control includes an enclosure, as opposed to a cover, must be in compliance with the enclosure and control device requirements of 40 CFR Part 264.1084(i), except as provided in 40 CFR Part 264.1082 (c)(5).

(viii) A tank that has a process vent as defined in 40 CFR Part 264.1031.

(c) For the owner and operator of a facility subject to this section who received a final permit under the Hazardous Waste Management Act prior to December 6, 1996, the requirements of 40 CFR Part 264 Subpart CC will be incorporated into the permit when the permit is reissued in accordance with the requirements of WAC 173-303-840(8) or reviewed in accordance with the requirements of WAC 173-303-806 (11)(d). Until such date when the permit is reissued in accordance with the requirements of WAC 173-303-840(8) or reviewed in accordance with the requirements of WAC 173-303-806 (11)(d), the owner and operator is subject to the requirements of 40 CFR Part 265 Subpart CC, which is incorporated by reference at WAC 173-303-400 (3)(a).

(d) The requirements of 40 CFR Part 264 Subpart CC, except for the recordkeeping requirements specified in 40 CFR Part 264.1089(i), are administratively stayed for a tank or a container used for the management of hazardous waste generated by organic peroxide manufacturing and its associated laboratory operations when the owner or operator of the unit meets all of the following conditions:

(i) The owner or operator identifies that the tank or container receives hazardous waste generated by an organic peroxide manufacturing process producing more than one functional family of organic peroxides or multiple organic peroxides within one functional family, that one or more of these organic peroxides could potentially undergo self-accelerating thermal decomposition at or below ambient temperatures, and that organic peroxides are the predominant products manufactured by the process. For the purpose of meeting the conditions of this paragraph, "organic peroxide" means an organic compound that contains the bivalent —O—O— structure and which may be considered to be a structural derivative of hydrogen peroxide where one or both of the hydrogen atoms has been replaced by an organic radical.

(ii) The owner or operator prepares documentation, in accordance with the requirements of 40 CFR Part 264.1089(i) explaining why an undue safety hazard would be created if air emission controls specified in 40 CFR Parts 264.1084 through 264.1087 are installed and operated on the tanks and containers used at the facility to manage the hazardous waste generated by the organic peroxide manufacturing process or processes meeting the conditions of (d)(i) of this subsection.

(iii) The owner or operator notifies the department in writing that hazardous waste generated by an organic perox-

ide manufacturing process or processes meeting the conditions of (d)(i) of this subsection are managed at the facility in tanks or containers meeting the conditions of (d)(ii) of this subsection. The notification must state the name and address of the facility, and must be signed and dated by an authorized representative of the facility owner or operator.

(2) **40 CFR Parts 264.1081 through 264.1091 (Subpart CC) is incorporated by reference.**

Note: Where the incorporated language refers to ((264.1050)) 264.1080, refer to WAC ((173-303-694)) 173-303-692. Where the incorporated language refers to Part 270, refer to WAC 173-303-800 through 173-303-840.

(3) **References within 40 CFR Part 264 Subpart CC to the following parts are incorporated by reference:** 40 CFR Parts 60, 61, and 63. This includes Method 25E - Determination of Vapor Phase Organic Concentration in Waste Samples at 40 CFR Part 60 Appendix A.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-806 Final facility permits. (1) Applicability. This section applies to all dangerous waste facilities required to have a final facility permit. The final facility permit requirements are applicable to:

(a) Final status TSD facilities; and

(b) Certain recycling facilities that are not exempt from the permit requirements.

(2)(a) Application. Any person subject to the permit requirements of this section who intends to operate a new TSD facility must comply with WAC 173-303-281 and apply for a final facility permit. The department may, at any time, require the owner or operator of an existing TSD facility to apply for a final facility permit. Such owner or operator will be allowed one hundred eighty days to submit his application; the department may extend the length of the application period if it finds that there are good reasons to do so. The owner or operator of an existing TSD facility may voluntarily apply for a final facility permit at any time. Any person seeking a final facility permit must complete, sign, and submit an application to the department. An application must consist of a Part A permit form (which can be obtained from the department), and the contents of Part B as specified in subsection (4) of this section. The requirements for the contents of a part A permit application are at WAC 173-303-803(4).

(b) Persons covered by permits by rule (WAC 173-303-802) need not apply. Procedures for applications, issuance and administration of emergency permits are found exclusively in WAC 173-303-804. Procedures for application, issuance and administration of research, development, and demonstration permits are found exclusively in WAC 173-303-809.

(3) Effective regulations. A final facility permit will include all applicable requirements of this chapter which are in effect on the date that the permit is issued by the department. WAC 173-303-840(7) provides a means for reopening permit proceedings at the discretion of the department where new requirements become effective during the permitting process and are of sufficient magnitude to make additional

proceedings desirable. Any other changes to the final facility permit will be in accordance with the permit modification requirements of WAC 173-303-830.

(4) Contents of Part B. Part B of a permit application must consist of the information required in (a) through (m) of this subsection.

(a) General requirements. Part B of the permit application consists of the general information requirements of this subsection, and the specific information requirements in (b) through (h) of this subsection as applicable to the facility. The Part B information requirements presented in (a) through (h) of this subsection, reflect the standards promulgated in WAC 173-303-600. These information requirements are necessary in order for the department to determine compliance with WAC 173-303-600 through 173-303-670. If owners and operators of TSD facilities can demonstrate that the information prescribed in Part B cannot be provided to the extent required, the department may make allowance for submission of such information on a case-by-case basis. Information required in Part B must be submitted to the department and signed in accordance with requirements in WAC 173-303-810(12). Certain technical data, such as design drawings and specifications, and engineering studies must be certified by a registered professional engineer. The following information is required for all TSD facilities, except as WAC 173-303-600(3) provides otherwise.

(i) A general description of the facility.

(ii) Chemical, biological, and physical analyses of the dangerous waste and hazardous debris to be handled at the facility. At a minimum, these analyses must contain all the information which must be known to treat, store, or dispose of the wastes properly in accordance with WAC 173-303-600.

(iii) A copy of the waste analysis plan required by WAC 173-303-300(5) and, if applicable WAC 173-303-300 (5)(g).

(iv) A description of the security procedures and equipment required by WAC 173-303-310, or a justification demonstrating the reasons for requesting a waiver of this requirement.

(v) A copy of the general inspection schedule required by WAC 173-303-320(2): Include where applicable, as part of the inspection schedule, specific requirements in WAC 173-303-395 (1)(d), 173-303-630(6), 173-303-640 (4)(a)(i) and (6), 173-303-650(4), 173-303-655(4), 173-303-660 (4) and (5), 173-303-665(4), 173-303-670(7), and 173-303-680(3), and 40 CFR 264.1033, 264.1035, 264.1052, 264.1053, 264.1058, 264.1064, 264.1067, 264.1084, 264.1085, 264.1086, and 264.1088.

(vi) A justification of any request for a waiver(s) of the preparedness and prevention requirements of WAC 173-303-340, or a description of the procedures used to comply with these requirements.

(vii) A copy of the contingency plan required by WAC 173-303-350: Include, where applicable, as part of the contingency plan, specific requirements in WAC 173-303-640(7), 173-303-650(5) and 173-303-660(6).

(viii) A description of procedures, structures, or equipment used at the facility to:

(A) Prevent hazards and contain spills in unloading/loading operations (for example, ramps, berms, pavement, special forklifts);

(B) Prevent run-off from dangerous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);

(C) Prevent contamination of water supplies;

(D) Mitigate effects of equipment failure and power outages;

(E) Prevent undue exposure of personnel to dangerous waste (for example, protective clothing); and

(F) Prevent releases to the atmosphere.

(ix) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with WAC 173-303-395 including documentation demonstrating compliance with WAC 173-303-395 (1)(c).

(x) Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes (if appropriate); describe access road surfacing and load bearing capacity; show traffic control signals).

(xi) Seismic risk consideration. The owner/operator of a proposed facility or expansion of an existing facility must identify the seismic risk zone in which the facility is intended to be located. Where state or local maps are not available, United States Geological Survey Open File Report number 82-1033 may be used to identify seismic risk zones. The owner/operator must demonstrate that the facility can and will be designed to resist seismic ground motion and that the design is sufficient to withstand the maximum horizontal acceleration of a design earthquake specified in the demonstration.

(xii) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the TSD facility in a safe manner as required to demonstrate compliance with WAC 173-303-330. A brief description of how training will be designed to meet actual job tasks in accordance with requirements in WAC 173-303-330 (1)(d).

(xiii) A copy of the closure plan and, where applicable, the post-closure plan required by WAC 173-303-610 (3) and (8). Include, where applicable, as part of the plans, specific requirements in WAC 173-303-630(10), 173-303-640(8), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), 173-303-670(8), and 173-303-680 (2) and (4).

(xiv) For dangerous waste disposal units that have been closed, documentation that notices required under WAC 173-303-610(10) have been filed.

(xv) The most recent closure cost estimate for the facility prepared in accordance with WAC 173-303-620(3) and a copy of the documentation required to demonstrate financial assurance under WAC 173-303-620(4). For a new facility, a copy of the required documentation may be submitted sixty days prior to the initial receipt of dangerous wastes, if that is later than the submission of the Part B.

(xvi) Where applicable, the most recent post-closure cost estimate for the facility prepared in accordance with WAC 173-303-620(5) plus a copy of the documentation required to demonstrate financial assurance under WAC 173-303-620

(6). For a new facility, a copy of the required documentation may be submitted sixty days prior to the initial receipt of dangerous wastes, if that is later than the submission of the Part B.

(xvii) Where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of WAC 173-303-620(8). For a new facility, documentation showing the amount of insurance meeting the specification of WAC 173-303-620 (8)(a) and, if applicable, WAC 173-303-620 (8)(b), that the owner or operator plans to have in effect before initial receipt of dangerous waste for treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in WAC 173-303-620 (8)(c).

(xviii) A topographic map showing a distance of one thousand feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of TSD facilities located in mountainous areas should use large contour intervals to adequately show topographic profiles of facilities. The map must clearly show the following:

(A) Map scale and date;

(B) One hundred-year floodplain area;

(C) Surface waters including intermittent streams;

(D) Surrounding land uses (residential, commercial, agricultural, recreational);

(E) A wind rose (i.e., prevailing windspeed and direction);

(F) Orientation of the map (north arrow);

(G) Legal boundaries of the TSD facility site;

(H) Access control (fences, gates);

(I) Injection and withdrawal wells both on-site and off-site;

(J) Buildings; treatment, storage, or disposal operations; or other structure (recreation areas, run-off control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.);

(K) Barriers for drainage or flood control; and

(L) Location of operational units within the TSD facility site, where dangerous waste is (or will be) treated, stored, or disposed (include equipment clean-up areas).

(Note - For large TSD facilities the department will allow the use of other scales on a case-by-case basis.)

(xix) Applicants may be required to submit such information as may be necessary to enable the department to carry out its duties under other state or federal laws as required.

(xx) Additional information requirements. The following additional information regarding protection of ground water is required from owners or operators of dangerous waste facilities containing a regulated unit except as otherwise provided in WAC 173-303-645 (1)(b):

(A) A summary of the ground water monitoring data obtained during the interim status period under 40 CFR 265.90 through 265.94, where applicable;

(B) Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including ground water flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area);

(C) On the topographic map required under (a)(xviii) of this subsection, a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under WAC 173-303-645(6), the proposed location of ground water monitoring wells as required under WAC 173-303-645(8), and, to the extent possible, the information required in (a)(xx)(B) of this subsection;

(D) A description of any plume of contamination that has entered the ground water from a regulated unit at the time that the application was submitted that:

(I) Delineates the extent of the plume on the topographic map required under (a)(xviii) of this subsection;

(II) Identifies the concentration of each constituent throughout the plume or identifies the maximum concentrations of each constituent in the plume. (Constituents are those listed in Appendix IX of 40 CFR Part 264, and any other constituents not listed there which have caused a managed waste to be regulated under this chapter.);

(E) Detailed plans and an engineering report describing the proposed ground water monitoring program to be implemented to meet the requirements of WAC 173-303-645(8);

(F) If the presence of dangerous constituents has not been detected in the ground water at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of WAC 173-303-645(9). This submission must address the following items specified under WAC 173-303-645(9):

(I) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of dangerous constituents in the ground water;

(II) A proposed ground water monitoring system;

(III) Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

(IV) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data;

(G) If the presence of dangerous constituents has been detected in the ground water at the point of compliance at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of WAC 173-303-645(10). The owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of WAC 173-303-645(11) except as provided in WAC 173-303-645 (9)(h)(v). Alternatively, the owner or operator can obtain written authorization in advance from the department to submit a proposed permit schedule for development and submittal of such information. To demonstrate compliance

with WAC 173-303-645(10), the owner or operator must address the following items:

(I) A description of the wastes previously handled at the facility;

(II) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

(III) A list of constituents and parameters for which compliance monitoring will be undertaken in accordance with WAC 173-303-645 (8) and (10);

(IV) Proposed concentration limits for each dangerous constituent and parameter, based on the criteria set forth in WAC 173-303-645 (5)(a), including a justification for establishing any alternate concentration limits;

(V) Detailed plans and an engineering report describing the proposed ground water monitoring system, in accordance with the requirements of WAC 173-303-645(8); and

(VI) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data; and

(H) If dangerous constituents or parameters have been measured in the ground water which exceed the concentration limits established under WAC 173-303-645(5), Table 1, or if ground water monitoring conducted at the time of permit application under 40 CFR 265.90 through 265.94 at the waste boundary indicates the presence of dangerous constituents from the facility in ground water over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of WAC 173-303-645(11). However, an owner or operator is not required to submit information to establish a corrective action program if he demonstrates to the department that alternate concentration limits will protect human health and the environment after considering the criteria listed in WAC 173-303-645(5). An owner or operator who is not required to establish a corrective action program for this reason must instead submit sufficient information to establish a compliance monitoring program which meets the requirements of WAC 173-303-645 (10) and (a)(xx)(F) of this subsection. To demonstrate compliance with WAC 173-303-645(11), the owner or operator must address, at a minimum, the following items:

(I) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

(II) The concentration limit for each dangerous constituent and parameter found in the ground water as set forth in WAC 173-303-645(5);

(III) Detailed plans and an engineering report describing the corrective action to be taken;

(IV) A description of how the ground water monitoring program will demonstrate the adequacy of the corrective action; and

(V) The permit may contain a schedule for submittal of the information required in (a)(xx)(H)(III) and (IV) of this subsection, provided the owner or operator obtains written authorization from the department prior to submittal of the complete permit application.

(xxi) Contingent ground water protection program. The following actions are required for owners or operators of pro-

posed land-based facilities and may be required for owners/operators of existing land-based facilities, except as provided in WAC 173-303-645 (1)(b).

(A) Contingent ground water protection program. The owner or operator must develop a contingent ground water protection program. The purpose of this program will be to prevent the migration of dangerous waste or dangerous waste constituents from waste management units to the nearest hydraulically downgradient receptor at any time during the life of the facility. For the purposes of this subsection, the downgradient receptor will be the facility property line, perennial surface water or domestic well, whichever is nearest to the dangerous waste management unit. The contingent ground water protection program must at a minimum:

(I) Define the local and regional hydrogeologic characteristics. The contingent ground water protection program must be based on a sufficient understanding of site geology, hydrology, and other factors to allow evaluation of its adequacy by the department. Site characterization must be performed in sufficient detail to provide, at a minimum, the following information: Site geostratigraphy; site hydrostratigraphy; identification of aquifers, aquitards, and aquicludes; flow models for each stratum (i.e., porous media or fracture flow); the distribution of vertical and horizontal hydraulic conductivity; effective porosity; horizontal and vertical hydraulic gradients; ground water travel time to receptors; and heterogeneity for each stratigraphic unit. Site interpretative models must include ranges of tested values: The provisions of WAC 173-303-806 (4)(a)(xx) and 173-303-645, must be used as guidance in the development of the contingent ground water protection program.

(II) Identify the range of potential release scenarios that could occur during facility operation and the post-closure care period. The scenarios must incorporate the intended design(s) of the dangerous waste management unit(s), wastes to be placed in the dangerous waste management unit(s), waste and leachate chemistry, waste, and soil and rock geochemical interactions, and the results of site characterization pursuant to WAC 173-303-806 (4)(a)(xx) and (xxi);

(III) Include specific physical action to be taken if dangerous waste or dangerous waste constituents are detected in one or more of the monitoring wells. The physical actions must be based upon engineering feasibility studies describing remedial actions established from site specific conditions and waste features. Such actions may include installation of a pump and treat system between the monitoring well and the receptor or installation of a section of slurry wall to decrease ground water travel times. The description of the systems must also provide how the remediation system will achieve cleanup, its efficiency, and the timeframes involved;

(IV) Incorporate the design, construction, and sampling methods outlined in WAC 173-303-645 (8)(c), (d), (e), (f), and (g);

(V) Demonstrate to the satisfaction of the department that the owner/operator of the dangerous waste management facility has the financial capability to implement the proposed ground water protection plan; and

(VI) Include reporting procedures to the department.

(B) The response actions identified in WAC 173-303-806 (4)(a)(xxi)(A)(III) must be activated if the presence of

dangerous waste or dangerous waste constituents have been detected at the point of compliance in accordance with WAC 173-303-645 (9)(g), and must continue until the concentration of dangerous waste or dangerous waste constituents under WAC 173-303-645(4) are reduced to levels below their respective concentration limits specified in WAC 173-303-645(5).

(C) If the owner/operator does not demonstrate that the ground water protection program will prevent the migration of dangerous waste or its constituents to the nearest receptor, the department will require corrections to be made in the protection program, increase setbacks from the nearest receptor, or deny the permit.

(xxii) Additional requirements for incineration facilities. The following actions regarding the protection of human health and the environment must be taken by owners/operators of proposed hazardous waste incineration facilities and may be required for owners or operators of existing incineration facilities.

(A) Ambient monitoring program. The owner/operator will be required to develop an ambient monitoring program. The purpose of this ambient monitoring program will be to: Gather baseline environmental information characterizing on-site and off-site environmental conditions prior to facility operation; and, to identify and measure changes in the environment which may be linked to the construction and operation of the facility. The ambient monitoring program must, at a minimum:

(I) Include a characterization of facility emission sources and pathways of contaminant transport.

(II) Characterize local and regional ecosystems, including agricultural, and their sensitivity to the potential contaminants from the facility.

(III) Incorporate the findings of the environmental impact statement's health risk assessment and/or other assessments specific to the proposal or available to the scientific community regarding emissions from dangerous waste management facilities and their potential human health and environmental effects.

(IV) Identify sensitive indicator plants and animals for biomonitoring, identify specific chemical constituents of concern, sampling locations, sampling frequency, sampling and analytical methods, chain of custody procedures, quality assurance/quality control procedures, reporting times, recordkeeping procedures, and data evaluation procedures.

(B) Environmental review procedures. The owner/operator must establish procedures to allow for public review of facility operation and all monitoring data required by the facility's permit. In developing this process, the owner/operator must, at a minimum:

(I) Coordinate this effort with the public and interested local organizations;

(II) Identify the informational needs of the community and develop a public information process which meets these needs; and

(III) Develop procedures allowing full access by the public to all monitoring data required by the permit.

(C) Impact mitigation plan. Prior to the department issuing a permit, the owner/operator must submit an impact mitigation plan which demonstrates to the satisfaction of the

department that the owner/operator will mitigate all probable significant adverse impacts, including economic, due to facility location and operations. The owner/operator must use as a basis for identifying probable significant adverse economic impacts those probable economic impacts identified during a public review process, such as the environmental impact statement scoping process, if applicable.

The plan must include, but is not limited to, a description of what the owner/operator will do to reduce or prevent any probable significant impacts before they occur, to mitigate such impacts should they occur, and to ensure the owner/operator has and will have the financial capability to implement such preventative and mitigative measures. Mitigation measures may include, as an element, financial compensation to adversely affected parties.

This plan may be submitted with environmental reports the department requires for compliance with the State Environmental Policy Act, with the written citizen proponent negotiation report and agreements, or with the Part B permit application. If the plan does not demonstrate that the owner/operator is capable of adequately mitigating the identified probable significant adverse economic impacts, the department will require modification of the plan or of the proposed facility location, or will deny the permit application. The department must be satisfied with the plan prior to the issuance of the permit.

(xxiii) Information requirements for solid waste management units.

(A) The following information is required for each solid waste management unit:

(I) The location of the unit on the topographic map required under (a)(xviii) of this subsection.

(II) Designation of type of unit.

(III) General dimensions and structural description (supply any available drawings).

(IV) Time frame over which the unit was operated.

(V) Specification of all wastes that have been managed in the unit, to the extent available.

(B) The owner/operator of any facility containing one or more solid waste management units must submit all available information pertaining to any release of dangerous wastes or dangerous constituents from such unit or units.

(C) The owner/operator must conduct and provide the results of sampling and analysis of ground water, landsurface, and subsurface strata, surface water, or air, which may include the installation of wells, where the department determines it is necessary to complete a RCRA Facility Assessment that will determine if a more complete investigation is necessary.

WAC 173-303-806 (4)(a)(xxiv):

(xxiv) Information requirements for known releases.

(A) In order to provide for corrective action necessary to protect human health and the environment, the following information is required for all known significant releases of dangerous waste and dangerous constituents (as defined by WAC 173-303-646 (2)(c)) at, and from, the facility. A significant release is a release which has affected or has the potential to affect human health or the environment at or beyond the facility.

(I) The location of the release on the topographic map required under (a)(xviii) of this subsection.

(II) General dimensions of the release and any relevant structural description. For example, if the release is from a storage tank, provide a structural description of the tank. Supply any available drawings.

(III) Time frame over which the release occurred.

(IV) Specification of all dangerous waste or dangerous constituents (as defined by WAC 173-303-646 (2)(c)) present in the release, to the extent available.

(xxv) A summary of the preapplication meeting, along with a list of attendees and their addresses, and copies of any written comments or materials submitted at the meeting, as required under WAC 173-303-281 (3)(c).

(xxvi) For land disposal facilities, if a case-by-case extension has been approved under 40 CFR 268.5 or a petition has been approved under 40 CFR 268.6, a copy of the notice of approval for the extension or petition is required.

(b) Specific Part B information requirements for containers. Except as otherwise provided in WAC 173-303-600(3), owners or operators of facilities that store containers of dangerous waste must provide the following additional information:

(i) A description of the containment system to demonstrate compliance with WAC 173-303-630(7). Show at least the following:

(A) Basic design parameters, dimensions, and materials of construction including allowance for a twenty-five-year, twenty-four-hour storm;

(B) How the design promotes positive drainage control or how containers are kept from contact with standing liquids in the containment system;

(C) Capacity of the containment system relative to the volume of the largest container to be stored;

(D) Provisions for preventing or managing run-on;

(E) How accumulated liquids can be analyzed and removed to prevent overflow; and

(F) A description of the building or other protective covering for EHW containers;

(ii) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with WAC 173-303-630 (7)(c), including:

(A) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and

(B) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids;

(iii) A description of the procedures for labeling containers;

(iv) Sketches, drawings, or data demonstrating compliance with WAC 173-303-630(8) (location of buffer zone and containers holding ignitable or reactive wastes) and WAC 173-303-630 (9)(c) (location of incompatible wastes), where applicable;

(v) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with WAC 173-303-630 (9)(a) and (b), and 173-303-395 (1)(b) and (c); and

(vi) Information on air emission control equipment as required in (m) of this subsection.

(c) Specific Part B information requirements for tanks. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use tanks to store or treat dangerous waste must provide the following information:

(i) A written assessment that is reviewed and certified by an independent, qualified, registered professional engineer as to the structural integrity and suitability for handling dangerous waste of each tank system, as required under WAC 173-303-640 (2) and (3);

(ii) Dimensions and capacity of each tank;

(iii) Description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents);

(iv) A diagram of piping, instrumentation, and process flow for each tank system;

(v) A description of materials and equipment used to provide external corrosion protection, as required under WAC 173-303-640 (3)(a)(iii)(B);

(vi) For new tank systems, a detailed description of how the tank system(s) will be installed in compliance with WAC 173-303-640 (3)(b), (c), (d), and (e);

(vii) Detailed plans and a description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of WAC 173-303-640 (4)(a), (b), (c), (d), (e), and (f);

(viii) For tank systems for which a variance from the requirements of WAC 173-303-640(4) is sought (as provided by WAC 173-303-640 (4)(g)):

(A) Detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous waste or dangerous constituents into the ground water or surface water during the life of the facility; or

(B) A detailed assessment of the substantial present or potential hazards posed to human health or the environment should a release enter the environment.

(ix) Description of controls and practices to prevent spills and overflows, as required under WAC 173-303-640 (5)(b);

(x) For tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with the requirements of WAC 173-303-640 (9) and (10);

(xi) A description of the marking and/or labeling of tanks;

(xii) Tank design to prevent escape of vapors and emissions of acutely or chronically toxic (upon inhalation) EHW; and

(xiii) Information on air emission control equipment as required in (m) of this subsection.

(d) Specific Part B information requirements for surface impoundments. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store, treat, or dispose of dangerous waste in surface impoundments must provide the following additional information:

(i) A list of the dangerous wastes placed or to be placed in each surface impoundment;

(ii) Detailed plans and an engineering report describing how the surface impoundment is designed, and is or will be constructed, operated and maintained to meet the requirements of WAC 173-303-650 (2)(j), (10), (11), and 173-303-335, addressing the following items:

(A) The liner system (except for an existing portion of a surface impoundment), including the certification required by WAC 173-303-650 (2)(a)(i)(D) for EHW management. If an exemption from the requirement for a liner is sought as provided by WAC 173-303-650 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituents into the ground water or surface water at any future time;

(B) Prevention of overtopping;

(C) Structural integrity of dikes;

(D) The double liner and leak (leachate) detection, collection, and removal system, if the surface impoundment must meet the requirements of WAC 173-303-650 (2)(j). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by WAC 173-303-650 (2)(k), (l), or (m), submit appropriate information;

(E) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(F) The construction quality assurance (CQA) plan if required under WAC 173-303-335; and

(G) Proposed action leakage rate, with rationale, if required under WAC 173-303-650(10), and response action plan, if required under WAC 173-303-650(11).

(iii) Reserve.

(iv) A description of how each surface impoundment, including the double liner system, leak detection system, cover systems and appurtenances for control of overtopping, will be inspected in order to meet the requirements of WAC 173-303-650 (4)(a), (b), and (d). This information should be included in the inspection plan submitted under (a)(v) of this subsection;

(v) A certification by a qualified engineer which attests to the structural integrity of each dike, as required under WAC 173-303-650 (4)(c). For new units, the owner or operator must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications;

(vi) A description of the procedure to be used for removing a surface impoundment from service, as required under WAC 173-303-650 (5)(b) and (c). This information should be included in the contingency plan submitted under (a)(vii) of this subsection;

(vii) A description of how dangerous waste residues and contaminated materials will be removed from the unit at closure, as required under WAC 173-303-650 (6)(a)(i). For any wastes not to be removed from the unit upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-650 (6)(a)(ii) and (b) will be complied with. This information should be

included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection;

(viii) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how WAC 173-303-650(7) will be complied with;

(ix) If incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment, an explanation of how WAC 173-303-650(8) will be complied with;

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how the surface impoundment is or will be designed to meet the requirements of WAC 173-303-650(9); and

(xi) Information on air emission control equipment as required in (m) of this subsection.

(e) Specific Part B information requirements for waste piles. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store or treat dangerous waste in waste piles must provide the following additional information:

(i) A list of dangerous wastes placed or to be placed in each waste pile;

(ii) If an exemption is sought to WAC 173-303-660(2), and 173-303-645 as provided by WAC 173-303-660 (1)(c), an explanation of how the standards of WAC 173-303-660 (1)(c) will be complied with;

(iii) Detailed plans and an engineering report describing how the waste pile is designed, and is or will be constructed, operated, and maintained to meet the requirements of WAC 173-303-335, 173-303-660 (2)(j), (11) and (12), addressing the following items:

(A)(I) The liner system (except for an existing portion of a pile) if the waste pile must meet the requirements of WAC 173-303-660(2), including the licensed engineer's certification when required by WAC 173-303-660 (2)(c). If an exemption from the requirement for a liner is sought, as provided by WAC 173-303-660 (2)(d), submit detailed plans and engineering and hydrogeologic reports, as applicable, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituents into the ground water or surface water at any future time;

(II) The double liner and leak (leachate) detection, collection, and removal system, if the waste pile must meet the requirements of WAC 173-303-660 (2)(j). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by WAC 173-303-660 (2)(k), (l), or (m), submit appropriate information;

(III) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(IV) The construction quality assurance (CQA) plan if required under WAC 173-303-335;

(V) Proposed action leakage rate, with rationale, if required under WAC 173-303-660(3), and response action plan, if required under WAC 173-303-660(4);

(B) Control of run-on;

(C) Control of run-off;

(D) Management of collection and holding units associated with run-on and run-off control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iv) Reserve.

(v) A description of how each waste pile, including the double liner system, leachate collection and removal system, leak detection system, cover system and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of WAC 173-303-660(5). This information should be included in the inspection plan submitted under (a)(v) of this subsection. If an exemption is sought to WAC 173-303-645 pursuant to WAC 173-303-660(4), describe in the inspection plan how the inspection requirements of WAC 173-303-660 (4)(a)(iii) will be complied with;

(vi) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals;

(vii) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of WAC 173-303-660(7) will be complied with;

(viii) If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how WAC 173-303-660(8) will be complied with;

(ix) A description of how dangerous waste, waste residues and contaminated materials will be removed from the waste pile at closure, as required under WAC 173-303-660 (9)(a). For any waste not to be removed from the waste pile upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-665 (6)(a) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection;

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a waste pile that is not enclosed (as defined in WAC 173-303-660 (1)(c)) is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-660(10).

(f) Specific Part B information requirements for incinerators. Except as WAC 173-303-670(1) provides otherwise, owners and operators of facilities that incinerate dangerous waste must fulfill the informational requirements of (f) of this subsection.

(i) When seeking an exemption under WAC 173-303-670 (1)(b) (ignitable or reactive wastes only):

(A) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is ignitable; or

(B) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is reactive for characteristics other than those listed in WAC 173-303-090 (7)(a)(iv) and (v), and will not be burned when other dangerous wastes are present in the combustion zone; or

(C) Documentation that the waste is a dangerous waste solely because it possesses the characteristic of ignitability,

as determined by the tests for characteristics of dangerous waste under WAC 173-303-090; or

(D) Documentation that the waste is a dangerous waste solely because it possesses the reactivity characteristics listed in WAC 173-303-090 (7)(a)(i), (ii), (iii), (vi), (vii), and (viii), and that it will not be burned when other dangerous wastes are present in the combustion zone.

(ii) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with WAC 173-303-807.

(iii) In lieu of a trial burn, the applicant may submit the following information;

(A) An analysis of each waste or mixture of wastes to be burned including:

(I) Heating value of the waste in the form and composition in which it will be burned;

(II) Viscosity (if applicable), or description of physical form of the waste, and specific gravity of the waste;

(III) An identification of any dangerous organic constituents listed in WAC 173-303-9905 or, if not listed, which cause the waste(s) to be regulated, which are present in the waste to be burned, except that the applicant need not analyze for constituents which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in WAC 173-303-110 (3)(a), or their equivalent;

(IV) An approximate quantification of the dangerous constituents identified in the waste, within the precision produced by the analytical methods specified in WAC 173-303-110 (3)(a); and

(V) A quantification of those dangerous constituents in the waste which may be designated as principal organic dangerous constituents (PODC's) based on data submitted from other trial or operational burns which demonstrate compliance with the performance standards in WAC 173-303-670(4);

(B) A detailed engineering description of the incinerator, including:

(I) Manufacturer's name and model number of incinerator;

(II) Type of incinerator;

(III) Linear dimension of incinerator unit including cross sectional area of combustion chamber;

(IV) Description of auxiliary fuel system (type/feed);

(V) Capacity of prime mover;

(VI) Description of automatic waste feed cutoff system(s);

(VII) Stack gas monitoring and pollution control monitoring system;

(VIII) Nozzle and burner design;

(IX) Construction materials; and

(X) Location and description of temperature, pressure, and flow indicating devices and control devices;

(C) A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed. The data should include those items listed in (f)(iii)(A) of this subsection. This analysis should specify the principal organic dangerous constituents (PODC's) which

the applicant has identified in the waste for which a permit is sought, and any differences from the PODC's in the waste for which burn data are provided;

(D) The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available;

(E) A description of the results submitted from any previously conducted trial burn(s) including:

(I) Sampling and analysis techniques used to calculate performance standards in WAC 173-303-670(4); and

(II) Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement);

(F) The expected incinerator operation information to demonstrate compliance with WAC 173-303-670 (4) and (6), including:

(I) Expected carbon monoxide (CO) level in the stack exhaust gas;

(II) Waste feed rate;

(III) Combustion zone temperature;

(IV) Indication of combustion gas velocity;

(V) Expected stack gas volume, flow rate, and temperature;

(VI) Computed residence time for waste in the combustion zone;

(VII) Expected hydrochloric acid removal efficiency;

(VIII) Expected fugitive emissions and their control procedures; and

(IX) Proposed waste feed cutoff limits based on the identified significant operating parameters;

(G) Such supplemental information as the department finds necessary to achieve the purposes of this subsection;

(H) Waste analysis data, including that submitted in (f)(iii)(A) of this subsection, sufficient to allow the department to specify as permit principal organic dangerous constituents (permit PODC's) those constituents for which destruction and removal efficiencies will be required; and

(I) Test protocols and sampling and analytical data to demonstrate the designation status under WAC 173-303-070 of:

(I) Incinerator ash residues, if any; and

(II) Residues from the air pollution control devices.

(iv) The department will approve a permit application without a trial burn if the department finds that:

(A) The wastes are sufficiently similar; and

(B) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (under WAC 173-303-670(6)) operating conditions that will ensure that the performance standards in WAC 173-303-670(4) will be met by the incinerator.

(g) Specific Part B information requirements for land treatment facilities. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use land treatment to dispose of dangerous waste must provide the following additional information:

(i) A description of plans to conduct a treatment demonstration as required under WAC 173-303-655(3). The description must include the following information:

- (A) The wastes for which the demonstration will be made and the potential dangerous constituents in the waste;
- (B) The data sources to be used to make the demonstration (e.g., literature, laboratory data, field data, or operating data);
- (C) Any specific laboratory or field test that will be conducted, including:
 - (I) The type of test (e.g., column leaching, degradation);
 - (II) Materials and methods, including analytical procedures;
 - (III) Expected time for completion; and
 - (IV) Characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices;
- (ii) A description of a land treatment program, as required under WAC 173-303-655(2). This information must be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program must address the following items:
 - (A) The wastes to be land treated;
 - (B) Design measures and operating practices necessary to maximize treatment in accordance with WAC 173-303-655 (4)(a) including:
 - (I) Waste application method and rate;
 - (II) Measures to control soil pH;
 - (III) Enhancement of microbial or chemical reactions;
 - and
 - (IV) Control of moisture content;
 - (C) Provisions for unsaturated zone monitoring, including:
 - (I) Sampling equipment, procedures, and frequency;
 - (II) Procedures for selecting sampling locations;
 - (III) Analytical procedures;
 - (IV) Chain of custody control;
 - (V) Procedures for establishing background values;
 - (VI) Statistical methods for interpreting results; and
 - (VII) The justification for any dangerous constituents recommended for selection as principal dangerous constituents, in accordance with the criteria for such selection in WAC 173-303-655 (6)(a);
 - (D) A list of dangerous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to WAC 173-303-300;
 - (E) The proposed dimensions of the treatment zone;
- (iii) A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of WAC 173-303-655(4). This submission must address the following items:
 - (A) Control of run-on;
 - (B) Collection and control of run-off;
 - (C) Minimization of run-off of dangerous constituents from the treatment zone;
 - (D) Management of collection and holding facilities associated with run-on and run-off control systems;
 - (E) Periodic inspection of the unit. This information should be included in the inspection plan submitted under (a)(v) of this subsection; and
 - (F) Control of wind dispersal of particulate matter, if applicable;

(iv) If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, a description of how the demonstration required under WAC 173-303-655(5) will be conducted including:

(A) Characteristics of the food-chain crop for which the demonstration will be made;

(B) Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration;

(C) Procedures for crop growth, sample collection, sample analysis, and data evaluation;

(D) Characteristics of the comparison crop including the location and conditions under which it was or will be grown; and

(E) If cadmium is present in the land treated waste, a description of how the requirements of WAC 173-303-655 (5)(b) will be complied with;

(v) A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining such cover during the post-closure care period, as required under WAC 173-303-655 (8)(a)(viii) and (c)(ii). This information should be included in the closure plan and, where applicable, the post-closure care plan submitted under (a)(xiii) of this subsection;

(vi) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of WAC 173-303-655(9) will be complied with; and

(vii) If incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how WAC 173-303-655(10) will be complied with.

(viii) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a land treatment facility is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-655(12).

(h) Specific Part B information requirements for landfills. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that dispose of dangerous waste in landfills must provide the following additional information;

(i) A list of the dangerous wastes placed or to be placed in each landfill or landfill cell;

(ii) Detailed plans and an engineering report describing how the landfill is designed, and is or will be constructed, operated and maintained to comply with the requirements of WAC 173-303-335, 173-303-665 (2), (8) and (9) addressing the following items:

(A)(I) The liner system (except for an existing portion of a landfill), if the landfill must meet the requirements of WAC 173-303-665 (2)(a), including the licensed engineer's certification required by WAC 173-303-665 (2)(a)(i). If an exemption from the requirements for a liner and a leachate collection and removal system is sought, as provided by WAC 173-303-665 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate designs and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituent into the ground water or surface water at any future time;

(II) The double liner and leak (leachate) detection, collection, and removal system, if the landfill must meet the requirements of WAC 173-303-665 (2)(h). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by WAC 173-303-665 (2)(j), (k) or (l), submit appropriate information;

(III) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(IV) The construction quality assurance (CQA) plan if required under WAC 173-303-335;

(V) Proposed action leakage rate, with rationale, if required under WAC 173-303-665(8), and response action plan, if required under 173-303-665(9);

(B) Control of run-on;

(C) Control of run-off;

(D) Management of collection and holding facilities associated with run-on and run-off control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iii) Reserve.

(iv) A description of how each landfill, including the double liner system, leachate collection and removal system, cover systems, and appurtenances for control for run-on and run-off will be inspected in order to meet the requirements of WAC 173-303-665(4). This information must be included in the inspection plan submitted under (a)(v) of this subsection;

(v) Detailed plans and an engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with WAC 173-303-665 (6)(a), and a description of how each landfill will be maintained and monitored after closure in accordance with WAC 173-303-665 (6)(b) and (c). This information should be included in the closure and post-closure plans submitted under (a)(xiii) of this subsection;

(vi) If incompatible wastes, or incompatible wastes and materials will be landfilled, an explanation of how WAC 173-303-665(7) will be complied with;

(vii) A description of how each landfill will be designed and operated in order to comply with WAC 173-303-140.

(i) Specific Part B information requirements for miscellaneous units. Except as otherwise provided in WAC 173-303-680(1), owners and operators of facilities that treat, store, or dispose of dangerous waste in miscellaneous units must provide the following additional information:

(i) A detailed description of the unit being used or proposed for use, including the following:

(A) Physical characteristics, materials of construction, and dimensions of the unit;

(B) Detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of WAC 173-303-680 (2) and (3); and

(C) For disposal units, a detailed description of the plans to comply with the post-closure requirements of WAC 173-303-680(4).

(ii) Detailed hydrologic, geologic, and meteorologic assessments and land-use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of WAC 173-303-680(2). If the applicant can demonstrate that he does not violate the environmental performance standards of WAC 173-303-680(2) and the department agrees with such demonstration, preliminary hydrologic, geologic, and meteorologic assessments will suffice.

(iii) Information on the potential pathways of exposure of humans or environmental receptors to dangerous waste or dangerous constituents and on the potential magnitude and nature of such exposures.

(iv) For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data.

(v) Any additional information determined by the department to be necessary for evaluation of compliance of the unit with the environmental performance standards of WAC 173-303-680(2).

(j) Specific Part B information requirements for process vents. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that have process vents to which WAC 173-303-690 applies must provide the following additional information:

(i) For facilities that cannot install a closed-vent system and control device to comply with the provisions of WAC 173-303-690 on the effective date that the facility becomes subject to the provisions of WAC 173-303-690 or 40 CFR 265 Subpart AA incorporated by reference at WAC 173-303-400 (3)(a), an implementation schedule as specified in 40 CFR section 264.1033 (a)(2).

(ii) Documentation of compliance with the process vent standards in 40 CFR section 264.1032, including:

(A) Information and data identifying all affected process vents, annual throughput and operating hours of each affected unit, estimated emission rates for each affected vent and for the overall facility (i.e., the total emissions for all affected vents at the facility), and the approximate location within the facility of each affected unit (e.g., identify the dangerous waste management units on a facility plot plan).

(B) Information and data supporting estimates of vent emissions and emission reduction achieved by add-on control devices based on engineering calculations or source tests. For the purpose of determining compliance, estimates of vent emissions and emission reductions must be made using operating parameter values (e.g., temperatures, flow rates, or concentrations) that represent the conditions that exist when the waste management unit is operating at the highest load or capacity level reasonably expected to occur.

(C) Information and data used to determine whether or not a process vent is subject to the requirements of 40 CFR section 264.1032.

(iii) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system to comply with the requirements of 40 CFR 264.1032, and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control

device, a performance test plan as specified in 40 CFR 264.1035 (b)(3).

(iv) Documentation of compliance with 40 CFR 264.1033, including:

(A) A list of all information references and sources used in preparing the documentation.

(B) Records, including the dates, of each compliance test required by 40 CFR 264.1033(k).

(C) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions" (WAC 173-303-110 (3)(g)(viii)) or other engineering texts acceptable to the department that present basic control device design information. The design analysis will address the vent stream characteristics and control device operation parameters as specified in 40 CFR 264.1035 (b)(4)(iii).

(D) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the dangerous waste management unit is or would be operating at the highest load or capacity level reasonably expected to occur.

(E) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater unless the total organic emission limits of 40 CFR 264.1032(a) for affected process vents at the facility can be attained by a control device involving vapor recovery at an efficiency less than 95 weight percent.

(k) Specific Part B information requirements for equipment leaks. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that have equipment to which WAC 173-303-691 applies must provide the following additional information:

(i) For each piece of equipment to which WAC 173-303-691 applies:

(A) Equipment identification number and dangerous waste management unit identification.

(B) Approximate locations within the facility (e.g., identify the dangerous waste management unit on a facility plot plan).

(C) Type of equipment (e.g., a pump or pipeline valve).

(D) Percent by weight total organics in the hazardous waste stream at the equipment.

(E) Hazardous waste state at the equipment (e.g., gas/vapor or liquid).

(F) Method of compliance with the standard (e.g., "monthly leak detection and repair" or "equipped with dual mechanical seals").

(ii) For facilities that cannot install a closed-vent system and control device to comply with the provisions of WAC 173-303-691 on the effective date that the facility becomes subject to the provisions of WAC 173-303-691 or 40 CFR Part 265 Subpart BB incorporated by reference at WAC 173-303-400 (3)(a), an implementation schedule as specified in 40 CFR 264.1033 (a)(2).

(iii) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, con-

denser, or carbon adsorption system and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in 40 CFR section 264.1035 (b)(3).

(iv) Documentation that demonstrates compliance with the equipment standards in 40 CFR sections 264.1052 to 264.1059. This documentation will contain the records required under 40 CFR 264.1064. The department may request further documentation before deciding if compliance has been demonstrated.

(v) Documentation to demonstrate compliance with 40 CFR section 264.1060 will include the following information:

(A) A list of all information references and sources used in preparing the documentation.

(B) Records, including the dates, of each compliance test required by 40 CFR 264.1033(j).

(C) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "ATPI Course 415: Control of Gaseous Emissions" (incorporated by reference as specified in WAC 173-303-110 (3)(g)(viii)) or other engineering texts acceptable to the department that present basic control device design information. The design analysis will address the vent stream characteristics and control device operation parameters as specified in 40 CFR 264.1035(b)(4)(iii).

(D) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the dangerous waste management unit is operating at the highest load or capacity level reasonably expected to occur.

(E) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater.

(l) Special Part B information requirements for drip pads.

Except as otherwise provided by WAC 173-303-600(3), owners and operators of dangerous waste treatment, storage, or disposal facilities that collect, store, or treat hazardous waste on drip pads must provide the following additional information:

(i) A list of hazardous wastes placed or to be placed on each drip pad.

(ii) If an exemption is sought to WAC 173-303-645, as provided by WAC 173-303-645(1), detailed plans and an engineering report describing how the requirements of WAC 173-303-645 (1)(b) will be met.

(iii) Detailed plans and an engineering report describing how the drip pad is or will be designed, constructed, operated and maintained to meet the requirements of WAC 173-303-675(4), including the as-built drawings and specifications. This submission must address the following items as specified in WAC 173-303-675(2):

(A) The design characteristics of the drip pad;

(B) The liner system;

(C) The leakage detection system, including the leak detection system and how it is designed to detect the failure

of the drip pad or the presence of any releases of hazardous waste or accumulated liquid at the earliest practicable time;

(D) Practices designed to maintain drip pads;

(E) The associated collection system;

(F) Control of run-on to the drip pad;

(G) Control of run-off from the drip pad;

(H) The interval at which drippage and other materials will be removed from the associated collection system and a statement demonstrating that the interval will be sufficient to prevent overflow onto the drip pad;

(I) Procedures for cleaning the drip pad at least once every seven days to ensure the removal of any accumulated residues of waste or other materials, including but not limited to rinsing, washing with detergents or other appropriate solvents, or steam cleaning and provisions for documenting the date, time, and cleaning procedure used each time the pad is cleaned.

(J) Operating practices and procedures that will be followed to ensure that tracking of hazardous waste or waste constituents off the drip pad due to activities by personnel or equipment is minimized;

(K) Procedures for ensuring that, after removal from the treatment vessel, treated wood from pressure and nonpressure processes is held on the drip pad until drippage has ceased, including recordkeeping practices;

(L) Provisions for ensuring that collection and holding units associated with the run-on and run-off control systems are emptied or otherwise managed as soon as possible after storms to maintain design capacity of the system;

(M) If treatment is carried out on the drip pad, details of the process equipment used, and the nature and quality of the residuals.

(N) A description of how each drip pad, including appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of WAC 173-303-675(4). This information should be included in the inspection plan submitted under (a)(v) of this subsection.

(O) A certification signed by an independent qualified, registered professional engineer, stating that the drip pad design meets the requirements of WAC 173-303-675 (4)(a) through (f).

(P) A description of how hazardous waste residues and contaminated materials will be removed from the drip pad at closure, as required under WAC 173-303-675 (6)(a). For any waste not to be removed from the drip pad upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-665(6) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection.

(m) Specific Part B information requirements for air emission controls for tanks, surface impoundments, and containers (Subpart CC) at 40 CFR Part 270.27 are incorporated by reference.

(5) Construction. A person may begin physical construction of a new facility, or of new portions of an existing facility if the new portions would amount to reconstruction under interim status (WAC 173-303-805(7)), only after complying with WAC 173-303-281, submitting Part A and Part B of the permit application and receiving a final facility permit. All

permit applications must be submitted at least one hundred eighty days before physical construction is expected to begin.

(6) Reapplications. Any dangerous waste facility with an effective final facility permit must submit a new application one hundred eighty days prior to the expiration date of the effective permit, unless the department grants a later date provided that such date will never be later than the expiration date of the effective permit.

Note: See public notice requirements at WAC 173-303-281(5).

(7) Continuation of expiring permits.

(a) When the owner/operator submits a timely application for a final facility permit and the application is determined by the department to be complete pursuant to subsection (8) of this section, the facility is allowed to continue operating under the expiring or expired permit until the effective date of the new permit.

(b) When the facility is not in compliance with the conditions of the expiring or expired permit, the department may choose to do any of the following:

(i) Initiate enforcement action based upon the permit which has been continued;

(ii) Issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

(iii) Issue a new permit with appropriate conditions; and/or

(iv) Take other actions authorized by this chapter.

(8) Completeness. The department will not issue a final facility permit before receiving a complete application, except for permits by rule or emergency permits. An application for a permit is complete when the application form and any supplemental information has been submitted to the department's satisfaction. The completeness of any application for a permit will be judged independently of the status of any other permit application or permit for the same facility or activity. The department may deny a permit for the active life of a dangerous waste management facility or unit before receiving a complete application for a permit.

(9) Recordkeeping. Applicants must keep records of all data used to complete the permit applications, and any supplemental information submitted to the department for a period of at least three years from the date the application is signed.

(10) General permit conditions. All final facility permits will contain general permit conditions described in WAC 173-303-810.

(11) Permit duration.

(a) Final facility permits will be effective for a fixed term not to exceed ten years.

(b) The department may issue any final facility permit for a duration that is less than the full allowable term.

(c) The term of a final facility permit will not be extended beyond ten years, unless otherwise authorized under subsection (7) of this section.

(d) Each permit for a land disposal facility will be reviewed by the department five years after the date of permit

issuance or reissuance and will be modified as necessary, as provided in WAC 173-303-830(3).

(12) Reserve.

(13) Grounds for denial. A permit application will be denied pursuant to the procedures in WAC 173-303-840 if it is determined that the proposed location and/or activity endangers public health and the environment as demonstrated by the permit applicant's failure to satisfy the performance standards of WAC 173-303-283.

(14) Permit changes. All final facility permits will be subject to the requirements of permit changes, WAC 173-303-830.

(15) Procedures for decision making. Issuance of final facility permits will be subject to the procedures for decision making described in WAC 173-303-840.

(16) Other requirements for final recycling facility permits. In lieu of issuing a final recycling facility permit, the department may, after providing opportunity for public comment in accordance with WAC 173-303-840, defer to a permit already issued under other statutory authority administered by the department (such as the State Water Pollution Control Act, chapter 90.48 RCW, the State Clean Air Act, chapter 70.94 RCW, etc.) which incorporates the requirements of this section, and WAC 173-303-500 through 173-303-525 for recycling facilities.

AMENDATORY SECTION (Amending Order 99-01, filed 5/10/00, effective 6/10/00)

WAC 173-303-830 Permit changes. (1) Purpose and applicability. This section describes the types of permit changes that may be made to all permits issued by the director. This section does not apply to permits by rule or interim status permits.

(2) Transfer of permits.

(a) A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under (b) of this subsection or subsection (3) of this section) to identify the new permittee and incorporate such other requirements as may be necessary under the appropriate act.

(b) Changes in the ownership or operational control of a facility may be made as a Class 1 modification with prior written approval of the director in accordance with subsection (4) of this section. The new owner or operator must submit a revised permit application no later than ninety days prior to the scheduled change. A written agreement containing a specific date for transfer of permit responsibility between the current and new permittees must also be submitted to the director. When a transfer of ownership or operational control occurs, the old owner or operator must comply with the requirements of WAC 173-303-620 (Financial requirements) until the new owner or operator has demonstrated that he or she is complying with the financial requirements. The new owner or operator must demonstrate compliance with the financial requirements within six months of the date of the change of ownership or operational control of the facility. Upon demonstration to the director by the new owner or operator of compliance with the financial requirements, the director will notify the old owner or operator that he or

she no longer needs to comply with the financial requirements as of the date of demonstration.

(3) Modification or revocation and reissuance of permits. When the director receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit, receives a request for revocation and reissuance, or conducts a review of the permit file), the director may determine whether or not one or more of the causes listed in (a) and (b) of this subsection for modification or revocation and reissuance or both exist. If cause exists, the director may modify or revoke and reissue the permit accordingly, subject to the limitations of (c) of this subsection, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. All other aspects of the existing permit remain in effect for the duration of the unmodified permit. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. During any revocation and reissuance proceeding, the permittee must comply with all conditions of the existing permit until a new final permit is reissued. If cause does not exist under this subsection, the director will not modify or revoke and reissue the permit, except on request of the permittee. If a permit modification is requested by the permittee, the director will approve or deny the request according to the procedures of subsection (4) of this section. Otherwise, a draft permit must be prepared and public review provided in accordance with WAC 173-303-840.

(a) Causes for modification. The following are causes for modification, but not revocation and reissuance, of permits; the following may be causes for revocation and reissuance, as well as modification, when the permittee requests or agrees:

(i) Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit;

(ii) Information. Permits may be modified during their terms if the director receives information that was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of different permit conditions at the time of issuance;

(iii) New statutory requirements or regulations. The standards or regulations on which the permit was based have been changed by statute, through adoption of new or amended standards or regulations or by judicial decision after the permit was issued.

(iv) Compliance schedules. The director determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage, or other events over which the permittee has little or no control and for which there is no reasonably available remedy;

(v) Notwithstanding any other provision in this section, when a permit for a land disposal facility is reviewed by the director under 173-303-806 (11)(d), the director will modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in this chapter.

(b) Causes for modification or revocation and reissuance. The following are causes to modify, or alternatively, revoke and reissue a permit:

(i) Cause exists for termination under WAC 173-303-830(5) for final facility permits, and the director determines that modification or revocation and reissuance is appropriate; or

(ii) The director has received notification of a proposed transfer of the permit.

(c) Reserve.

(4) Permit modification at the request of the permittee.

(a) Class 1 modifications.

(i) Except as provided in (a)(ii) of this subsection, the permittee may put into effect Class 1 modifications listed in Appendix I of this section under the following conditions:

(A) The permittee must notify the director concerning the modification by certified mail or other means that establish proof of delivery within seven calendar days after the change is put into effect. This notice must specify the changes being made to permit conditions or supporting documents referenced by the permit and must explain why they are necessary. Along with the notice, the permittee must provide the applicable information required by WAC 173-303-805, 173-303-806, 173-303-807, and 173-303-808.

(B) The permittee must send a notice of the modification to all persons on the facility mailing list, maintained by the director in accordance with WAC 173-303-840 (3)(e)(i)(D), and the appropriate units of state and local government, as specified in WAC 173-303-840 (3)(e)(i)(E). This notification must be made within ninety calendar days after the change is put into effect. For the Class 1 modifications that require prior director approval, the notification must be made within ninety calendar days after the director approves the request.

(C) Any person may request the director to review, and the director may for cause reject, any Class 1 modification. The director must inform the permittee by certified mail that a Class 1 modification has been rejected, explaining the reasons for the rejection. If a Class 1 modification has been rejected, the permittee must comply with the original permit conditions.

(ii) Class 1 permit modifications identified in Appendix I by an asterisk may be made only with the prior written approval of the director.

(iii) For a Class 1 permit modification, the permittee may elect to follow the procedures in (b) of this subsection for Class 2 modifications instead of the Class 1 procedures. The permittee must inform the director of this decision in the notice required in (b)(i) of this subsection.

(b) Class 2 modifications.

(i) For Class 2 modifications, listed in Appendix I of this section, the permittee must submit a modification request to the director that:

(A) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

(B) Identifies that the modification is a Class 2 modification;

(C) Explains why the modification is needed; and

(D) Provides the applicable information required by WAC 173-303-805, 173-303-806, 173-303-807, and 173-303-808.

(ii) The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the director and to the appropriate units of state and local government as specified in WAC 173-303-840 (3)(e)(i)(E) and must publish this notice in a major local newspaper of general circulation. This notice must be mailed and published within seven days before or after the date of submission of the modification request, and the permittee must provide to the director evidence of the mailing and publication. The notice must include:

(A) Announcement of a sixty-day comment period, in accordance with (b)(v) of this subsection, and the name and address of a departmental contact to whom comments must be sent;

(B) Announcement of the date, time, and place for a public meeting held in accordance with (b)(iv) of this subsection;

(C) Name and telephone number of the permittee's contact person;

(D) Name and telephone number of a departmental contact person;

(E) Location where copies of the modification request and any supporting documents can be viewed and copied; and

(F) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the department of ecology contact person."

(iii) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

(iv) The permittee must hold a public meeting no earlier than fifteen days after the publication of the notice required in (b)(ii) of this subsection and no later than fifteen days before the close of the sixty-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.

(v) The public will be provided sixty days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the department of ecology contact identified in the public notice.

(vi)(A) No later than ninety days after receipt of the notification request, the director must:

(I) Approve the modification request, with or without changes, and modify the permit accordingly;

(II) Deny the request;

(III) Determine that the modification request must follow the procedures in (c) of this subsection for Class 3 modifications for the following reasons:

(AA) There is significant public concern about the proposed modification; or

(BB) The complex nature of the change requires the more extensive procedures of Class 3;

(IV) Approve the request, with or without changes, as a temporary authorization having a term of up to one hundred eighty days; or

(V) Notify the permittee that he or she will decide on the request within the next thirty days.

(B) If the director notifies the permittee of a thirty-day extension for a decision, the director must, no later than one hundred twenty days after receipt of the modification request:

(I) Approve the modification request, with or without changes, and modify the permit accordingly;

(II) Deny the request; or

(III) Determine that the modification request must follow the procedures in (c) of this subsection for Class 3 modifications for the following reasons:

(AA) There is significant public concern about the proposed modification; or

(BB) The complex nature of the change requires the more extensive procedures of Class 3.

(IV) Approve the request, with or without changes, as a temporary authorization having a term of up to one hundred eighty days.

(C) If the director fails to make one of the decisions specified in (b)(vi)(B) of this subsection by the one hundred twentieth day after receipt of the modification request, the permittee is automatically authorized to conduct the activities described in the modification request for up to one hundred eighty days, without formal departmental action. The authorized activities must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of 40 CFR Part 265 (as referenced by WAC 173-303-400). If the director approves, with or without changes, or denies the modification request during the term of the temporary or automatic authorization provided for in (b)(vi)(A), (B), or (C) of this subsection, such action cancels the temporary or automatic authorization.

(D)(I) In the case of an automatic authorization under (b)(vi)(C) of this subsection, or a temporary authorization under (b)(vi)(A)(IV) or (B)(IV) of this subsection, if the director has not made a final approval or denial of the modification request by the date fifty days prior to the end of the temporary or automatic authorization, the permittee must within seven days of that time send a notification to persons on the facility mailing list, and make a reasonable effort to notify other persons who submitted written comments on the modification request, that:

(AA) The permittee has been authorized temporarily to conduct the activities described in the permit modification request; and

(BB) Unless the director acts to give final approval or denial of the request by the end of the authorization period, the permittee will receive authorization to conduct such activities for the life of the permit.

(II) If the owner/operator fails to notify the public by the date specified in (b)(vi)(D)(I) of this subsection, the effective date of the permanent authorization will be deferred until fifty days after the owner/operator notifies the public.

(E) Except as provided in (b)(vi)(G) of this subsection, if the director does not finally approve or deny a modification request before the end of the automatic or temporary authorization period or reclassify the modification as a Class 3, the permittee is authorized to conduct the activities described in the permit modification request for the life of the permit unless modified later under subsection (3) or (4) of this sec-

tion. The activities authorized under this subsection (b)(vi)(E) must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of 40 CFR Part 265 (as referenced by WAC 173-303-400).

(F) In making a decision to approve or deny a modification request, including a decision to issue a temporary authorization or to reclassify a modification as a Class 3, the director must consider all written comments submitted during the public comment period and must respond in writing to all significant comments in his or her decision.

(G) With the written consent of the permittee, the director may extend indefinitely or for a specified period the time periods for final approval or denial of a modification request or for reclassifying a modification as a Class 3.

(vii) The director may deny or change the terms of a Class 2 permit modification request under (b)(6)(i) through (iii) of this subsection for the following reasons:

(A) The modification request is incomplete;

(B) The requested modification does not comply with the appropriate requirements of WAC 173-303-280 through 173-303-395 and 173-303-600 through 173-303-680 or other applicable requirements; or

(C) The conditions of the modification fail to protect human health and the environment.

(viii) The permittee may perform any construction associated with a Class 2 permit modification request beginning sixty days after the submission of the request unless the director establishes a later date for commencing construction and informs the permittee in writing before day sixty.

(c) Class 3 modifications.

(i) For Class 3 modifications listed in Appendix I of this section, the permittee must submit a modification request to the director that:

(A) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

(B) Identifies that the modification is a Class 3 modification;

(C) Explains why the modification is needed; and

(D) Provides the applicable information required by WAC 173-303-805, 173-303-806, 173-303-807, and 173-303-808.

(ii) The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the director and to the appropriate units of state and local government as specified in WAC 173-303-840 (3)(e)(i)(D) and must publish this notice in a major local newspaper of general circulation. This notice must be mailed and published within seven days before or after the date of submission of the modification request, and the permittee must provide to the director evidence of the mailing and publication. The notice must include:

(A) Announcement of a sixty-day comment period, and a name and address of an agency contact to whom comments must be sent;

(B) Announcement of the date, time, and place for a public meeting on the modification request, in accordance with (c)(4) of this subsection;

(C) Name and telephone number of the permittee's contact person;

(D) Name and telephone number of a departmental contact person;

(E) Location where copies of the modification request and any supporting documents can be viewed and copied; and

(F) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the department of ecology contact person."

(iii) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

(iv) The permittee must hold a public meeting no earlier than fifteen days after the publication of the notice required in (c)(ii) of this subsection and no later than fifteen days before the close of the sixty-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.

(v) The public will be provided at least sixty days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the department of ecology contact identified in the notice.

(vi) After the conclusion of the sixty-day comment period, the director must grant or deny the permit modification request according to the permit modification procedures of WAC 173-303-840. In addition, the director must consider and respond to all significant written comments received during the sixty-day comment period.

(d) Other modifications.

(i) In the case of modifications not explicitly listed in Appendix I of this section, the permittee may submit a Class 3 modification request to the department, or he or she may request a determination by the director that the modification should be reviewed and approved as a Class 1 or Class 2 modification. If the permittee requests that the modification be classified as a Class 1 or 2 modification, he or she must provide the department with the necessary information to support the requested classification.

(ii) The director will make the determination described in (d)(i) of this subsection as promptly as practicable. In determining the appropriate class for a specific modification, the director will consider the similarity of the modification to other modifications codified in Appendix I and the following criteria:

(A) Class 1 modifications apply to minor changes that keep the permit current with routine changes to the facility or its operation. These changes do not substantially alter the permit conditions or reduce the capacity of the facility to protect human health or the environment. In the case of Class 1 modifications, the director may require prior approval.

(B) Class 2 modifications apply to changes that are necessary to enable a permittee to respond, in a timely manner, to:

(I) Common variations in the types and quantities of the wastes managed under the facility permit;

(II) Technological advancements; and

(III) Changes necessary to comply with new regulations, where these changes can be implemented without substantially changing design specifications or management practices in the permit.

(C) Class 3 modifications substantially alter the facility or its operation.

(e) Temporary authorizations.

(i) Upon request of the permittee, the director may, without prior public notice and comment, grant the permittee a temporary authorization in accordance with this subsection. Temporary authorizations must have a term of not more than one hundred eighty days.

(ii)(A) The permittee may request a temporary authorization for:

(I) Any Class 2 modification meeting the criteria in (e)(iii)(B) of this subsection; and

(II) Any Class 3 modification that meets the criteria in (e)(iii)(B)(I) or (II) of this subsection; or that meets the criteria in (e)(iii)(B)(III) through (V) of this subsection and provides improved management or treatment of a dangerous waste already listed in the facility permit.

(B) The temporary authorization request must include:

(I) A description of the activities to be conducted under the temporary authorization;

(II) An explanation of why the temporary authorization is necessary; and

(III) Sufficient information to ensure compliance with the standards in WAC 173-303-280 through 173-303-395 and 173-303-600 through 173-303-680.

(C) The permittee must send a notice about the temporary authorization request to all persons on the facility mailing list maintained by the director and to appropriate units of state and local governments as specified in WAC 173-303-840 (3)(e)(i)(D). This notification must be made within seven days of submission of the authorization request.

(iii) The director will approve or deny the temporary authorization as quickly as practical. To issue a temporary authorization, the director must find:

(A) The authorized activities are in compliance with the standards of WAC 173-303-280 through 173-303-395 and 173-303-600 through 173-303-680.

(B) The temporary authorization is necessary to achieve one of the following objectives before action is likely to be taken on a modification request:

(I) To facilitate timely implementation of closure or corrective action activities;

(II) To allow treatment or storage in tanks, containers, or in containment buildings in accordance with 40 CFR Part 268;

(III) To prevent disruption of ongoing waste management activities;

(IV) To enable the permittee to respond to sudden changes in the types or quantities of the wastes managed under the facility permit; or

(V) To facilitate other changes to protect human health and the environment.

(iv) A temporary authorization may be reissued for one additional term of up to one hundred eighty days provided that the permittee has requested a Class 2 or 3 permit modifi-

cation for the activity covered in the temporary authorization, and:

(A) The reissued temporary authorization constitutes the director's decision on a Class 2 permit modification in accordance with (b)(vi)(A)(IV) or (B)(IV) of this subsection; or

(B) The director determines that the reissued temporary authorization involving a Class 3 permit modification request is warranted to allow the authorized activities to continue while the modification procedures of (c) of this subsection are conducted.

(f) Public notice and appeals of permit modification decisions.

(i) The director will notify persons on the facility mailing list and appropriate units of state and local government within ten days of any decision under this section to grant or deny a Class 2 or 3 permit modification request. The director will also notify such persons within ten days after an automatic authorization for a Class 2 modification goes into effect under (b)(vi)(C) or (E) of this subsection.

(ii) The director's decision to grant or deny a Class 2 or 3 permit modification request under this section may be appealed under the permit appeal procedures of WAC 173-303-845.

(iii) An automatic authorization that goes into effect under (b)(vi)(C) or (E) of this subsection may be appealed under the permit appeal procedures of WAC 173-303-845; however, the permittee may continue to conduct the activities pursuant to the automatic authorization until the appeal has been granted pursuant to WAC 173-303-845, notwithstanding the provisions of WAC 173-303-840 (8)(b).

(g) Newly regulated wastes and units.

(i) The permittee is authorized to continue to manage wastes listed or identified as dangerous under WAC 173-303-070, or to continue to manage dangerous waste in units newly regulated as dangerous waste management units, if:

(A) The unit was in existence as a dangerous waste facility with respect to the newly listed or identified waste or newly regulated waste management unit on the effective date of the final rule listing or identifying the waste, or regulating the unit;

(B) The permittee submits a Class 1 modification request on or before the date on which the waste or unit becomes subject to the new requirements;

(C) The permittee is in compliance with the applicable standards of 40 CFR Part 265 (as referenced in WAC 173-303-400) and Part 266 (as referenced in WAC 173-303-510);

(D) The permittee also submits a complete Class 2 or 3 permit modification request within one hundred eighty days of the effective date of the rule listing or identifying the waste, or subjecting the unit to management standards under this chapter; and

(E) In the case of land disposal units, the permittee certifies that each such unit is in compliance with all applicable requirements of 40 CFR Part 265 for ground water monitoring and financial responsibility (as referenced in WAC 173-303-400) on the date twelve months after the effective date of the rule identifying or listing the waste as dangerous, or regulating the unit as a dangerous waste management unit. If the owner or operator fails to certify compliance with all these

requirements, he or she will lose authority to operate under this section.

(ii) New wastes or units added to a facility's permit under this subsection do not constitute expansions for the purpose of the twenty-five percent capacity expansion limit for Class 2 modifications.

(h) Military dangerous waste munitions treatment and disposal. The permittee is authorized to continue to accept waste military munitions notwithstanding any permit conditions barring the permittee from accepting off-site wastes, if:

(i) The facility was in existence as a dangerous waste facility, and the facility was already permitted to handle the waste military munitions, on the date when the waste military munitions became subject to dangerous waste regulatory requirements;

(ii) On or before the date when the waste military munitions become subject to dangerous waste regulatory requirements, the permittee submits a Class 1 modification request to remove or amend the permit provision restricting the receipt of off-site waste munitions; and

(iii) The permittee submits a complete Class 2 modification request within one hundred eighty days of the date when the waste military munitions became subject to dangerous waste regulatory requirements.

(i) Permit modification list. The director must maintain a list of all approved permit modifications and must publish a notice once a year in a statewide newspaper that an updated list is available for review.

APPENDIX I

Modifications	Class
A. General Permit Provisions	
1. Administrative and informational changes	1
2. Correction of typographical errors	1
3. Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls)	1
4. Changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee:	
a. To provide for more frequent monitoring, reporting, sampling, or maintenance	1
b. Other changes	2
5. Schedule of compliance:	
a. Changes in interim compliance dates; with prior approval of the director	11
b. Extension of final compliance date	3
6. Changes in expiration date of permit to allow earlier permit termination, with prior approval of the director	11
7. Changes in ownership or operational control of a facility, provided the procedures of subsection (2)(b) of this section are followed	11
B. General Facility Standards	

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- 1. Changes to waste sampling or analysis methods:
 - a. To conform with agency guidance or regulations 1
 - b. To incorporate changes associated with F039 (multi-source leachate) sampling or analysis methods 11
 - c. To incorporate changes associated with underlying dangerous constituents in ignitable or corrosive wastes 11
 - d. Other changes 2
- 2. Changes to analytical quality assurance/control plan:
 - a. To conform with agency guidance or regulations 1
 - b. Other changes 2
- 3. Changes in procedures for maintaining the operating record 1
- 4. Changes in frequency or content of inspection schedules 2
- 5. Changes in the training plan:
 - a. That affect the type or decrease the amount of training given to employees 2
 - b. Other changes 1
- 6. Contingency plan:
 - a. Changes in emergency procedures (i.e., spill or release response procedures) 2
 - b. Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed 1
 - c. Removal of equipment from emergency equipment list 2
 - d. Changes in name, address, or phone number of coordinators or other persons or agencies identified in the plan 1
- 7. Construction quality assurance plan:
 - a. Changes that the CQA officer certifies in the operating record will provide equivalent or better certainty that the unit components meet the design specification 1
 - b. Other changes 2

Note: When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change will be reviewed under the same procedures as the permit modification.

C. Ground Water Protection

- 1. Changes to wells:
 - a. Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted ground water monitoring system 2
 - b. Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well 1
- 2. Changes in ground water sampling or analysis procedures or monitoring schedule, with prior approval of the director 11

- 3. Changes in statistical procedure for determining whether a statistically significant change in ground water quality between upgradient and downgradient wells has occurred, with prior approval of the director 11
- 4. Changes in point of compliance 12
- 5. Changes in indicator parameters, hazardous constituents, or concentration limits (including ACLs):
 - a. As specified in the ground water protection standard 3
 - b. As specified in the detection monitoring program 2
- 6. Changes to a detection monitoring program as required by WAC 173-303-645 (9)((~~f~~)), unless otherwise specified in this appendix 2
- 7. Compliance monitoring program:
 - a. Addition of compliance monitoring program as required by WAC 173-303-645 (9)((~~h~~)(~~iv~~)) and (10) 3
 - b. Changes to a compliance monitoring program as required by WAC 173-303-645 (10)((~~h~~)), unless otherwise specified in this appendix 2
- 8. Corrective action program:
 - a. Addition of a corrective action program as required by WAC 173-303-645 (10)(i)(ii) and (11) 3
 - b. Changes to a corrective action program as required by WAC 173-303-645 (11)(h), unless otherwise specified in this appendix 2
- D. Closure
 - 1. Changes to the closure plan:
 - a. Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the director 11
 - b. Changes in the closure schedule for any unit, changes in the final closure schedule for the facility, or extension of the closure period, with prior approval of the director 11
 - c. Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the director 11
 - d. Changes in procedures for decontamination of facility equipment or structures, with prior approval of the director 11
 - e. Changes in approved closure plan resulting from unexpected events occurring during partial or final closure, unless otherwise specified in this appendix 2
 - f. Extension of the closure period to allow a landfill, surface impoundment, or land treatment unit to receive non-dangerous wastes after final receipt of dangerous wastes under WAC 173-303-610 (4)(d) and (e) 2
 - 2. Creation of a new landfill unit as part of closure 3

3. Addition of the following new units to be used temporarily for closure activities:

- a. Surface impoundments 3
- b. Incinerators 3
- c. Waste piles that do not comply with WAC 173-303-660 (1)(c) 3
- d. Waste piles that comply with WAC 173-303-660 (1)(c) 2
- e. Tanks or containers (other than specified below) 2
- f. Tanks used for neutralization, dewatering, phase separation, or component separation, with prior approval of the director 11
- g. Staging piles 2

E. Post-Closure

- 1. Changes in name, address, or phone number of contact in post-closure plan 1
- 2. Extension of post-closure care period 2
- 3. Reduction in the post-closure care period 3
- 4. Changes to the expected year of final closure, where other permit conditions are not changed 1
- 5. Changes in post-closure plan necessitated by events occurring during the active life of the facility, including partial and final closure 2

F. Containers

- 1. Modification or addition of container units:
 - a. Resulting in greater than 25% increase in the facility's container storage capacity, except as provided in F (1)(c) and F (4)(a) below 3
 - b. Resulting in up to 25% increase in the facility's container storage capacity, except as provided in F (1)(c) and F (4)(a) below 2
 - c. Or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii), with prior approval of the director. This modification may also involve addition of new waste codes or narrative descriptions of wastes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 11
- 2:
 - a. Modification of a container unit without increasing the capacity of the unit 2
 - b. Addition of a roof to a container unit without alteration of the containment system 1
- 3. Storage of different wastes in containers:
 - a. That require additional or different management practices from those authorized in the permit, except as provided in F(4) below 3

- b. That do not require additional or different management practices from those authorized in the permit 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

- 4. Storage or treatment of different wastes in containers:
 - a. That require addition of units or change in treatment process or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards, or that are to be treated to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 11
 - b. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

G. Tanks

- 1:
 - a. Modification or addition of tank units resulting in greater than 25% increase in the facility's tank capacity, except as provided in G (1)(c), G (1)(d), and G (1)(e) below 3
 - b. Modification or addition of tank units resulting in up to 25% increase in the facility's tank capacity, except as provided in G (1)(d) and G (1)(e) below 2
 - c. Addition of a new tank that will operate for more than 90 days using any of the following physical or chemical treatment technologies: Neutralization, dewatering, phase separation, or component separation 2
 - d. After prior approval of the director, addition of a new tank that will operate for up to 90 days using any of the following physical or chemical treatment technologies: Neutralization, dewatering, phase separation, or component separation 11
 - e. Modification or addition of tank units or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii), with prior approval of the director. This modification may also involve addition of new waste codes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 11
- 2. Modification of a tank unit or secondary containment system without increasing the capacity of the unit 2

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- 3. Replacement of a tank with a tank that meets the same design standards and has a capacity within +/- 10% of the replaced tank provided 1
 - The capacity difference is no more than 1500 gallons,
 - The facility's permitted tank capacity is not increased, and
 - The replacement tank meets the same conditions in the permit.
- 4. Modification of a tank management practice 2
- 5. Management of different wastes in tanks:
 - a. That require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process from that authorized in the permit, except as provided in G (5)(c) below 3
 - b. That do not require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process than authorized in the permit, except as provided in G (5)(d) .. 2
 - c. That require addition of units or change in treatment processes or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards or that are to be treated to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii). The modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1
 - (d) That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received waste of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

H. Surface Impoundments

- 1. Modification or addition of surface impoundment units that result in increasing the facility's surface impoundment storage or treatment capacity 3
- 2. Replacement of a surface impoundment unit 3
- 3. Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment capacity and without modifying the unit's liner, leak detection system, or leachate collection system 2
- 4. Modification of a surface impoundment management practice 2
- 5. Treatment, storage, or disposal of different wastes in surface impoundments:

- a. That require additional or different management practices or different design of the liner or leak detection system than authorized in the permit 3
 - b. That do not require additional or different management practices or different design of the liner or leak detection system than authorized in the permit 2
 - c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii), and provided that the unit meets the minimum technological requirements stated in 40 CFR 268.5 (h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1
 - d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a unit that meets the minimum technological requirements stated in 40 CFR 268.5 (h)(2), and provided further that the surface impoundment has previously received wastes of the same type (for example, incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1
 - 6. Modifications of unconstructed units to comply with WAC 173-303-650 (2)(j), (10), (11), and (4)(d) *1
 - 7. Changes in response action plan:
 - a. Increase in action leakage rate 3
 - b. Change in a specific response reducing its frequency or effectiveness 3
 - c. Other changes 2
- Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

I. Enclosed Waste Piles. For all waste piles except those complying with WAC 173-303-660 (1)(c), modifications are treated the same as for a landfill. The following modifications are applicable only to waste piles complying with WAC 173-303-660 (1)(c).

- 1. Modification or addition of waste pile units:
 - a. Resulting in greater than 25% increase in the facility's waste pile storage or treatment capacity 3
 - b. Resulting in up to 25% increase in the facility's waste pile storage or treatment capacity 2
- 2. Modification of waste pile unit without increasing the capacity of the unit 2
- 3. Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit 1
- 4. Modification of a waste pile management practice 2
- 5. Storage or treatment of different wastes in waste piles:
 - a. That require additional or different management practices or different design of the unit 3

- b. That do not require additional or different management practices or different design of the unit 2
- 6. Conversion of an enclosed waste pile to a containment building unit 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

J. Landfills and Unenclosed Waste Piles

- 1. Modification or addition of landfill units that result in increasing the facility's disposal capacity 3
- 2. Replacement of a landfill 3
- 3. Addition or modification of a liner, leachate collection system, leachate detection system, run-off control, or final cover system 3
- 4. Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, run-off control, or final cover system 2
- 5. Modification of a landfill management practice 2
- 6. Landfill different wastes:
 - a. That require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system 3
 - b. That do not require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system 2
 - c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii), and provided that the landfill unit meets the minimum technological requirements stated in 40 CFR 268.5 (h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1
 - d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a landfill unit that meets the minimum technological requirements stated in 40 CFR 268.5 (h)(2), and provided further that the landfill has previously received wastes of the same type (for example, incinerator ash). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1
- 7. Modifications of unconstructed units to comply with WAC 173-303-660 (2)(j), (11), (12), (5)(c), 173-303-665 (2)(h), (8), (4)(c), and (9) *1
- 8. Changes in response action plan:
 - a. Increase in action leakage rate 3
 - b. Change in a specific response reducing its frequency or effectiveness. 3
 - c. Other changes 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

K. Land Treatment

- 1. Lateral expansion of or other modification of a land treatment unit to increase areal extent 3
- 2. Modification of run-on control system 2
- 3. Modify run-off control system 3
- 4. Other modifications of land treatment unit component specifications or standards required in permit 2
- 5. Management of different wastes in land treatment units:
 - a. That require a change in permit operating conditions or unit design specifications 3
 - b. That do not require a change in permit operating conditions or unit design specifications 2
- Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.
- 6. Modification of a land treatment unit management practice to:
 - a. Increase rate or change method of waste application 3
 - b. Decrease rate of waste application 2
- 7. Modification of a land treatment unit management practice to change measures of pH or moisture content, or to enhance microbial or chemical reactions 2
- 8. Modification of a land treatment unit management practice to grow food chain crops, to add to or replace existing permitted crops with different food chain crops, or to modify operating plans for distribution of animal feeds resulting from such crops 3
- 9. Modification of operating practice due to detection of releases from the land treatment unit pursuant to WAC 173-303-655 (6)(g)(ii) 3
- 10. Changes in the unsaturated zone monitoring system, resulting in a change to the location, depth, number of sampling points, or replace unsaturated zone monitoring devices or components of devices with devices or components that have specifications different from permit requirements . . . 3
- 11. Changes in the unsaturated zone monitoring system that do not result in a change to the location, depth, number of sampling points, or that replace unsaturated zone monitoring devices or components of devices with devices or components having specifications different from permit requirements 2
- 12. Changes in background values for hazardous constituents in soil and soil-pore liquid 2
- 13. Changes in sampling, analysis, or statistical procedure 2
- 14. Changes in land treatment demonstration program prior to or during the demonstration 2

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15. Changes in any condition specified in the permit for a land treatment unit to reflect results of the land treatment demonstration, provided performance standards are met, and the director's prior approval has been received 2

16. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and have received the prior approval of the director 2

17. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, where the conditions for the second demonstration are not substantially the same as the conditions for the first demonstration 3

18. Changes in vegetative cover requirements for closure 2

L. Incinerators, Boilers, and Industrial Furnaces

1. Changes to increase by more than 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 3

2. Changes to increase by up to 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 2

3. Modification of an incinerator, boiler, or industrial furnace unit by changing the internal size or geometry of the primary or secondary combustion units, by adding a primary or secondary combustion unit, by substantially changing the design of any component used to remove HCl/C1₂, metals, or particulate from the combustion gases, or by changing other features of the incinerator, boiler, or industrial furnace that could affect its capability to meet the regulatory performance standards. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 3

4. Modification of an incinerator, boiler, or industrial furnace unit in a manner that would not likely affect the capability of the unit to meet the regulatory performance standards but which would change the operating conditions or monitoring requirements specified in the permit. The director may require a new trial burn to demonstrate compliance with the regulatory performance standards 2

5. Operating requirements:

a. Modification of the limits specified in the permit for minimum or maximum combustion gas temperature, minimum combustion gas residence time, oxygen concentration in the secondary combustion chamber flue gas carbon monoxide and hydrocarbon concentration, maximum temperature at the inlet to the particulate matter emission control system, or operating parameters for the air pollution control system. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 3

b. Modification of any stack gas emission limits specified in the permit, or modification of any conditions in the permit concerning emergency shutdown or automatic waste feed cutoff procedures or controls 3

c. Modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit 2

6. Burning different wastes:

a. If the waste contains a POHC that is more difficult to burn than authorized by the permit or if burning of the waste requires compliance with different regulatory performance standards than specified in the permit. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 3

b. If the waste does not contain a POHC that is more difficult to burn than authorized by the permit and if burning of the waste does not require compliance with different regulatory performance standards than specified in the permit . . 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

7. Shakedown and trial burn:

a. Modification of the trial burn plan or any of the permit conditions applicable during the shakedown period for determining operational readiness after construction, the trial burn period, or the period immediately following the trial burn 2

b. Authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operational readiness after construction, with the prior approval of the director 11

- c. Changes in the operating requirements set in the permit for conducting a trial burn, provided the change is minor and has received the prior approval of the director 11
- d. Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided the change is minor and has received the prior approval of the director 11
- 8. Substitution of an alternate type of nondangerous fuel that is not specified in the permit 1

M. Containment Buildings

- 1. Modification or addition of containment building units:
 - a. Resulting in greater than 25% increase in the facility's containment building storage or treatment capacity. 3
 - b. Resulting in up to 25% increase in the facility's containment building storage or treatment capacity. 2
- 2. Modification of a containment building unit or secondary containment system without increasing the capacity of the unit. 2
- 3. Replacement of a containment building with a containment building that meets the same design standards provided:
 - a. The unit capacity is not increased. 1
 - b. The replacement containment building meets the same conditions in the permit. 1
- 4. Modification of a containment building management practice. 2
- 5. Storage or treatment of different wastes in containment buildings:
 - a. That require additional or different management practices. 3
 - b. That do not require additional or different management practices. 2

N. Corrective Action

- 1. Approval of a corrective action management unit pursuant to WAC 173-303-646 (4), (5), and (6) 3
- 2. Approval of a temporary unit or time extension for a temporary unit pursuant to WAC 173-303-646(7) 2
- 3. Approval of a staging pile or staging pile operating term extension 2
- 4. Modification to incorporate a corrective action order issued pursuant to MTCA 3
- 5. Modification or amendment of a corrective action order issued pursuant to MTCA when the MTCA public participation requirements are met and order has already been incorporated by reference into the permit 1

¹Class 1 modifications requiring prior Agency approval

(5) Permit termination. The director will follow the applicable procedures in WAC 173-303-840, procedures for decision making, in terminating any permit. The following are causes for terminating a permit during its term or for denying a permit renewal application:

- (a) Noncompliance by the permittee with any condition of the permit;
- (b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or
- (c) A determination that the permitted activity endangers public health or the environment and can only be regulated to acceptable levels by permit modification or termination.

WSR 03-07-056
PERMANENT RULES
HORSE RACING COMMISSION

[Filed March 14, 2003, 1:45 p.m.]

Date of Adoption: March 13, 2003.

Purpose: To amend WAC 260-28-030 Financial responsibility, to better clarify a licensee's financial responsibilities that are directly related to Washington race track and training operations.

Citation of Existing Rules Affected by this Order: Amending WAC 260-28-030 Financial responsibility.

Statutory Authority for Adoption: RCW 67.16.040.

Adopted under notice filed as WSR 03-03-040 on January 10, 2003.

Changes Other than Editing from Proposed to Adopted Version: Extended the time limit for filing a financial responsibility complaint from one year to two years (subsections (2) and (4)(b)) and clarified a complaint as one where the amount owed is undisputed (subsection (3)).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

March 14, 2003

R. M. Leichner
Executive Secretary

PERMANENT

AMENDATORY SECTION (Amending Rules of racing, § 27, filed 4/21/61)

WAC 260-28-030 Financial responsibility. ((Any application for owner and/or trainer's license, at the request of the commission, must establish to the satisfaction of the commission his financial stability. He shall maintain his financial responsibility so long as he is licensed by the commission; failure to so comply shall be grounds for revocation of license.))

(1) No licensee shall willfully fail or refuse to pay money due for services, supplies, or fees connected with his or her operations as a licensee. No licensee shall falsely deny such an amount due or the validity of a complaint on such an amount due for the purpose of hindering, delaying, or defrauding the person to whom the amount is due.

(2) A financial responsibility complaint against a licensee must be in writing, signed by the complainant, and accompanied by documentation of the services, supplies or fees alleged to have been provided, or by a judgment from a civil court that has been issued within two years of the date of the complaint.

(3) Any licensee failing to make restitution as a result of a complaint where the amount owed is undisputed or judgment may be subject to disciplinary action, including a license suspension.

(4) The stewards will consider for disciplinary action only those financial responsibility complaints that meet the following criteria:

(a) The complaint involves services, supplies or fees that are directly related to the licensee's Washington racetrack and training operations; and

(b) The debt or cause of action originated in Washington, or the civil court judgment was issued in Washington, within two years of the date the complaint is filed.

(5) In determining whether to act on a financial responsibility complaint, the stewards may consider the number of financial responsibility complaints made by the complainant against the same licensee within a two-year period immediately preceding the current complaint.

(6) No licensee shall write, issue, make or present any check in payment for any license fee, fine, nomination or entry fee or other fees, or for any service or supplies when the licensee knows or should reasonably know that the check will be refused for payment by the bank upon which it is written, or that the account upon which the check is written does not contain sufficient funds for payment of the check, or that the check is written on a closed or non-existent account. The fact that such a check is returned to the payee by the bank as refused is a grounds for a license suspension pending satisfactory redemption of the returned check.

Purpose: Amend WAC 260-48-630 Closing of wagering in a race, to clarify the commission's responsibility during live racing, and the association's responsibility during a simulcast race.

Citation of Existing Rules Affected by this Order: Amending WAC 260-48-630 Closing of wagering in a race.

Statutory Authority for Adoption: RCW 67.16.040.

Adopted under notice filed as WSR 03-04-089 on February 4, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

March 14, 2003

R. M. Leichner

Executive Secretary

AMENDATORY SECTION (Amending WSR 96-10-014, filed 4/19/96, effective 6/11/96)

WAC 260-48-630 Closing of wagering in a race. (1) Coincident with the start of a live race, a commission representative shall close wagering for the race after which time no parimutuel tickets shall be sold for that race.

(2) Coincident with the start of any simulcast race, the association shall be responsible to ensure that wagering is closed for the race after which time no parimutuel tickets shall be sold for that race.

(3) (((2))) The association shall maintain in good order an electrical or other system approved by the commission for locking of parimutuel machines.

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 03-07-058

PERMANENT RULES

HORSE RACING COMMISSION

[Filed March 14, 2003, 1:47 p.m.]

Date of Adoption: March 13, 2003.

Purpose: To adopt into rules a new section WAC 260-72-040, authorization and procedures to be used to allow a

WSR 03-07-057

PERMANENT RULES

HORSE RACING COMMISSION

[Filed March 14, 2003, 1:46 p.m.]

Date of Adoption: March 13, 2003.

class 1 racing association to transmit a simulcast signal of a live race to an account wagering facility.

Statutory Authority for Adoption: RCW 67.16.040.

Adopted under notice filed as WSR 03-04-090 on February 4, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 1, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

March 14, 2003

R. M. Leichner

Executive Secretary

NEW SECTION

WAC 260-72-040 Transmission of simulcast signal to account wagering facility. (1) A class 1 racing association may transmit simulcasts of live horse races conducted at its racetrack to an account wagering facility only in accordance with this section, RCW 67.16.200(4), and the interstate horse racing act, 15 U.S.C. Sections 3001 to 3007. In this section, "class 1 racing association" or "association" means the same as in RCW 67.16.200(7).

(2) In this section, "account wagering facility" or "facility" means a business, other than a racing association, that

(a) Facilitates pari-mutuel wagering on horse races it simulcasts;

(b) Is conducted outside the state of Washington; and

(c) Is licensed or otherwise permitted by law in the state in which it is located.

(3) To transmit a simulcast signal under this section, an association must file an application on a form provided by the commission at least 15 days before the first simulcast race covered by the application. The executive secretary may approve a request to simulcast under this section, subject to rescission of the approval by the commission within 60 days. The application must include at a minimum:

(a) A copy of the written contract or agreement between the class 1 association and the account wagering facility and an assurance that the commission will be notified of any other agreements between the association and the facility pertaining to this section, whether written or oral;

(b) Written approval from the horsemen's association representing the majority of owners and trainers racing at the class 1 racing association;

(c) Written approval from the appropriate regulatory authority in the state where the account wagering facility is located;

(d) A description of how the state where the facility is located regulates and monitors the account wagering facility for compliance with applicable law and for the protection of the public; and

(e) Dates of the live race meet for which the application is being made.

(4) The written agreement between the class 1 racing association and the account wagering facility must contain substantially the following terms:

(a) A specific description of the fee structure and fees to be paid to the association under the agreement;

(b) A provision requiring the facility to agree it shall not accept any wager that violates Washington law, including any wager originating in the state of Washington unless affirmatively permitted by Washington law;

(c) The executive secretary may require the association to submit additional information if he or she determines the additional information is necessary for the commission to effectively evaluate the application;

(d) Approval of an application under this section shall be in effect from the date of approval through the close of the live race meet for which the application is made, unless rescinded by the commission under subsection (3);

(e) The commission's approval of a specific application under this section is not binding on the commission as to any other application.

(5) In determining whether to approve an application under this section, the commission shall consider the following factors:

(a) The impacts on all Washington racing associations, Washington horsemen, and the Washington horse racing industry;

(b) Whether the commission deems the state compliance and monitoring efforts described in WAC 260-72-040 (3)(d) and contained in the application sufficient to ensure the integrity of all operations and financial transactions under the agreement; and

(c) Any other factor the commission identifies on the record as relevant to its approval.

(6) No class 1 racing association shall enter a written agreement under this section that is in violation of, or may be construed as waiving any provision of chapter 67.16 RCW, Title 260 WAC or any applicable federal, state or local law.

(7) Every class 1 racing association approved to transmit a simulcast signal under this section shall file with the commission a monthly statement showing amounts contributed to and balance in the purse fund and the breeders awards fund. This statement shall be filed with the commission no later than ten days after the end of each month.

WSR 03-07-066
PERMANENT RULES
DEPARTMENT OF REVENUE

[Filed March 17, 2003, 11:41 a.m.]

Date of Adoption: March 17, 2003.

Purpose: This rule explains the application of the business and occupation (B&O) tax exemptions for wholesale sales of new motor vehicles between new car dealers and accommodation sales.

The revised rule incorporates chapter 258, Laws of 2001, and consolidates tax-reporting information by incorporating Excise Tax Advisories (ETAs) 064.04.208 and 428.04.103/208. The department plans to cancel these ETAs when the revised Rule 208 becomes effective.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-208 Exemptions for adjustments of new motor vehicle inventory between new car dealers and accommodation sales.

Statutory Authority for Adoption: RCW 82.32.300, 82.01.060(2), and 34.05.230.

Adopted under notice filed as WSR 02-18-035 on August 26, 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 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

March 17, 2003

Russell W. Brubaker

Assistant Director

Legislation and Policy Division

AMENDATORY SECTION (Amending Order ET 70-3, filed 5/29/70, effective 7/1/70)

WAC 458-20-208 Exemptions for adjustments of new motor vehicle inventory between new car dealers and accommodation sales. ~~((The term "accommodation sales" means only sales for resale by persons regularly engaged in the business of making sales of the type of property so sold to other persons similarly engaged in the business of selling such property where (1) the amount paid by the buyer does not exceed the amount paid by the seller to his vendor in the acquisition of the article and (2) the sale is made as an accommodation to the buyer to enable him to fill a bona fide existing order of a customer or is made within fourteen days to~~

~~reimburse in kind a previous accommodation sale by the buyer to the seller.~~

~~The "amount paid by the seller to his vendor" may under some circumstances include certain actual costs incurred by the seller and billed as such to the buyer in addition to the invoice cost of the article sold at an accommodation sale. The facts concerning such added costs must be submitted to the department of revenue for specific rulings. The "amount paid by the seller to his vendor" shall not be reduced by the amount of any manufacturer's holdbacks or discounts received after an article has been sold at an accommodation sale even though such holdbacks or discounts may be retained by the seller.~~

Business and Occupation Tax

~~In computing tax under the wholesaling—Other classification, there may be deducted from the reported gross amount so much as represents receipts from accommodation sales. Each seller claiming this deduction must retain as a part of his sales records sufficient evidence to prove the nature of the transactions.~~

~~Revised June 1, 1970.) (1) **Introduction.** This rule discusses the business and occupation (B&O) tax exemptions for certain wholesale sales of new motor vehicles between new car dealers and accommodation sales. The rule also clarifies the applicability of the accommodation sale exemption to exchanges of fungible products, such as gasoline and oil.~~

~~(2) **Inventory adjustments by new car dealers.** Effective July 1, 2001, RCW 82.04.422 provides a B&O tax exemption for wholesale sales of new motor vehicles by new car dealers to other new car dealers for purposes of adjusting inventory levels.~~

~~The following conditions must be satisfied for the exemption to apply.~~

~~(a) **New motor vehicle.** The property sold must be a new motor vehicle. For the purposes of this rule, "new motor vehicle" means every motor vehicle that is self-propelled and is required to be registered and titled under Title 46 RCW, has not been previously titled to a retail purchaser, and is not a "used motor vehicle" as defined under RCW 46.04.660, RCW 46.70.011. Examples of motor vehicles include passenger cars, trucks, motorcycles, and motor homes.~~

~~(b) **Wholesale sale between new car dealers selling the same make of new motor vehicles.** The sale must be a wholesale sale and must occur between new car dealers selling the same make of vehicle.~~

~~(i) **Example 1.** A new car dealer sells a new light pickup truck, Make A, to another new car dealer. The purchasing dealer also sells new Make A passenger vehicles. This sale qualifies for the exemption.~~

~~(ii) **Example 2.** A new car dealer sells a new passenger vehicle, Make X, to another new car dealer. The purchasing dealer is not regularly engaged in the business of selling new Make X vehicles. This sale does not qualify for the exemption.~~

~~(c) **Amount paid by the purchasing dealer may not exceed amount paid by selling dealer.** The amount paid by the purchasing dealer cannot exceed the amount the selling dealer paid in the acquisition of the new motor vehicle.~~

although the selling dealer may add reasonable expenses for preparing the vehicle for sale or transfer. Actual freight or delivery costs incurred by the seller and billed as such to the buyer may also be added.

(i) What are reasonable expenses for preparation?

Reasonable expenses for preparing the vehicle for sale or transfer include, but are not limited to, the actual cost of additional accessories installed by the selling dealer, such as wheel/tire upgrades, and pin striping.

Questions concerning whether the exemption is available when other costs are included should be submitted to the department for determination at:

Department of Revenue
Taxpayer Services
P.O. Box 47478
Olympia, WA 98504-7478

(ii) What is the effect of holdbacks or discounts on amount paid? The amount paid by the selling dealer may not be reduced by the amount of any manufacturer's holdbacks or discounts received after an article has been sold to adjust inventory levels even though the seller may retain such holdbacks or discounts.

For the following examples, presume a new car dealer receives two new motor vehicles from the manufacturer on June 1st. The manufacturer's sales invoice indicates an invoice price of \$16,600 and a holdback of \$500 for each vehicle. The dealer is entitled to receive the holdback on July 1st, thirty days after being billed for the vehicle by the manufacturer.

(A) Example 1. The new car dealer sells one of the vehicles to another new car dealer on June 10th. The amount paid by the selling dealer in the acquisition of the vehicle is \$16,600.

(B) Example 2. The new car dealer sells the other vehicle to another new car dealer on July 18th. The amount paid by the selling dealer in the acquisition of the vehicle is \$16,100.

(3) Accommodation sales. RCW 82.04.425 provides a B&O tax exemption for wholesale sales of tangible personal property by persons who regularly engage in making sales of the type of property so sold to other persons who similarly engage in the business of selling such property.

The following conditions must be satisfied for the exemption to apply.

(a) Amount paid by buyer may not exceed amount paid by seller. The amount the buyer pays to the seller may not exceed the amount the seller paid to the seller's vendor in the acquisition of the property. Thus, a seller who manufactured the property sold cannot claim the exemption because the property has not been acquired from a vendor.

The instructions in subsection (2)(c) of this rule regarding additional expenses for preparation and the effect of holdbacks and discounts equally apply to the accommodation sale B&O tax exemption provided by RCW 82.04.425.

(b) Sale is an accommodation to fill an existing order. The sale must occur as an accommodation to allow the buyer to fill a bona fide existing order of a customer or occur within fourteen days to reimburse in-kind a previous accommodation sale by the buyer to the seller. A bona fide existing order

is present if there is a commitment by the buyer's customer to purchase the property. The buyer must retain records demonstrating the customer's commitment to purchase, such as a written agreement or deposit.

For example, Recreational Vehicle Dealer A purchases a fifth-wheel trailer from Recreational Vehicle Dealer B as an accommodation. Ten days later, Dealer A sells a travel trailer to Dealer B as reimbursement in-kind of the previous accommodation sale. For Dealer A to claim the B&O tax exemption for the sale of the travel trailer to Dealer B, Dealer A must keep sufficient records to document a bona fide existing customer order for the fifth-wheel trailer purchased from Dealer B.

(c) Documentation. A person claiming the exemption for an accommodation sale must maintain sufficient documentation to verify the exemption. In addition to the documentation noted above establishing, where pertinent, the existence of a bona fide existing customer order, this documentation must include:

(i) The buyer's name and address;

(ii) The seller's name and address;

(iii) The buyer's UBI/tax registration number;

(iv) Description of the property purchased, including make, model, and serial numbers as appropriate;

(v) The date of purchase and the purchase price;

(vi) A statement by the buyer as to whether the purchase is to fill a bona fide existing order or to reimburse a previous in-kind accommodation sale, including information identifying the previous accommodation sale; and

(vii) The buyer's signature and title.

(4) Exchanges of fungible products. Persons engaged in the selling and distributing of fungible products often enter into exchange agreements. An exchange is a sale regardless of whether it results in a profit because a transfer of the ownership of, title to, or possession of property for valuable consideration occurs. RCW 82.04.040. Exchanges are subject to the B&O tax unless otherwise exempt by law.

(a) What is a fungible product? Fungible products are products that lose their physical identity to the point that they cannot be distinguished from like-kind items when commingled. Examples of fungible products include gasoline, bulk oil products, grains, logs, wood chips, fruits, and vegetables.

(b) What is an exchange? Under typical exchange agreements, a person is required to furnish products to another person selling and distributing the same products, sometimes receiving payment in-kind or with a substitute product at a later date. Exchange agreements may require the person to arrange for direct delivery from his or her vendor to the third party distributor. In some cases, actual title and/or possession of the product may pass directly from the vendor to the third-party distributor.

Persons exchanging fungible products often do so on a regular and continuing basis to cover shortages occurring because of a lack of storage or production facilities, and/or to effect savings in transportation costs. Exchanges may be carried as loans on the books of account (in which case the exchanges are often referred to as "intercompany loans"). Products acquired via an exchange may or may not be carried as regular inventory on the books of account.

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(c) May an exchange of fungible products qualify as an accommodation sale? The fact that the product sold is a fungible product does not preclude a claim that the sale is exempt as an accommodation sale. However, such a claim will be recognized only if the statutory requirements of RCW 82.04.425 are met.

**WSR 03-07-076
PERMANENT RULES
DEPARTMENT OF LICENSING**

[Filed March 18, 2003, 2:06 p.m.]

Date of Adoption: March 4, 2003.

Purpose: Meet criteria supporting Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Amending WAC 308-93-370, 308-93-380, 308-93-390, and 308-93-440.

Statutory Authority for Adoption: RCW 88.02.070, 88.02.100.

Adopted under notice filed as WSR 03-01-104 on December 18, 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 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 4, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

March 4, 2003

Fred Stephens

Director

AMENDATORY SECTION (Amending WSR 01-21-071, filed 10/18/01, effective 11/18/01)

WAC 308-93-370 Format required for name and address—Names separated by the words "and," "or," or the slash symbol (/). (1) **Does the department use the words "and," "or," or the slash symbol (/) when recording multiple interests on a certificate of ownership?** No, the department no longer uses these designations when recording ownership interest. For those certificates of ownership (~~which~~) that have been issued using one of these designations(~~;~~);

(a) Any registered owners shown are considered to have equal registered owner interest in the vessel; and

(b) Any secured parties shown are considered to have equal secured party interest in the vessel.

(2) **Will the department use the words "and," "or," or the slash symbol (/) if another jurisdiction has recorded multiple interests on the foreign certificate of ownership using one of these designations?** No. The department does not allow the use of these designations when recording ownership interest.

AMENDATORY SECTION (Amending WSR 01-21-071, filed 10/18/01, effective 11/18/01)

WAC 308-93-380 Format required for name and address—Ownership in joint tenancy. (1) **What does joint tenancy with rights of survivorship (JTWROS) mean when noted on a certificate of ownership?** If a vessel certificate of ownership shows the owners are in joint tenancy with rights of survivorship and one of the named parties dies, ownership vests in the surviving joint owner(s). The department will issue a certificate of ownership in the name of the surviving joint owner(s) upon application supported by a copy of the death certificate issued by a government entity and an application for certificate of ownership signed by the surviving owner(s).

(2) **How is joint tenancy with rights of survivorship shown on the application for certificate of ownership?** The application for certificate of ownership must show(~~s~~) the name of every owner with the phrase "Joint tenants with rights of survivorship" spelled out. (~~The address of only one owner can be accepted on the application. Example 1:~~

~~Doe, John~~

~~Doe, Jane~~

~~Doe, Mary~~

~~Joint tenants with rights of survivorship; or~~

~~Example 2:~~

~~Doe, John~~

~~Doe, Jane~~

~~Joint tenants with rights of survivorship.))~~

(3) **How is joint tenancy with rights of survivorship shown on the certificate of ownership?** The certificate of ownership will be printed showing the abbreviation "JTWROS(~~;~~)" in the brands/comments section.

AMENDATORY SECTION (Amending WSR 01-08-022, filed 3/27/01, effective 4/27/01)

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

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

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

~~(c) The name of the trust only.~~

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

~~(3) If a vessel is titled in the name of a trust, who represents the trust for title transactions? Any trustee designated in the trust document represents the trust on all vessel transactions with the department unless that trustee is replaced or the trust is terminated.~~

~~(4) What is required when the succession of trustees is appointed? If the name of the trustee who has been succeeded is shown on the certificate of ownership, the successor trustee must apply for a new certificate of ownership and provide documentation appointing them as trustee.)) A certificate of ownership may show the name of the trustee(s) or trust in one of the following manners:~~

~~(a) The trustee(s) name(s) only followed by the designation trustee, i.e., John Doe, trustee; or~~

~~(b) The trustee(s) name(s) followed by the designation trustee and the name of the trust, i.e., John Doe, trustee John Doe Family Trust; or~~

~~(c) The name of the trust only, i.e., John Doe Family Trust.~~

~~Note: If necessary, the name of the trust will be abbreviated to meet the department's system limitations.~~

~~**(2) What trust documents do I need to present to apply for a certificate of ownership in the name of the trust? You will need to provide a copy of the signed trust documents, showing the name of the trust, trustee(s) and successor trustees.**~~

~~Note: Massachusetts Trusts described in chapter 23.90 RCW must provide verification that the trust was filed with the Washington secretary of state.~~

~~**(3) What is required when the trustee no longer acts on behalf of a trust? If a trustee no longer acts on behalf of a trust, and the vessel ownership currently shows:**~~

~~(a) The trustee(s) name(s) only followed by the designation trustee, i.e., John Doe, trustee, application must be made for a new certificate of ownership; or~~

~~(b) The trustee(s) name(s) followed by the designation trustee and the name of the trust, i.e., John Doe, trustee John Doe Family Trust, application must be made for a new certificate of ownership; or~~

~~(c) The name of the trust only, i.e., John Doe Family Trust application for new certificate of ownership is not required.~~

~~Note: New, or successor, trustees must provide documentation showing they are named as such in the trust.~~

~~((5)) **(4) What is required when a trust is terminated? If the termination of the trust results in a change of ownership for the vessel, the new owner must apply for a new certificate of ownership under chapter 88.02 RCW.**~~

AMENDATORY SECTION (Amending WSR 00-23-028, filed 11/7/00, effective 12/8/00)

WAC 308-93-440 Ownership in doubt. (1) ((What do I do if I am unable to provide an acceptable release of interest as defined in WAC 308-93-460 from the owner(s) of record for a vessel? When you are unable to provide an acceptable release of interest from the owner(s) of record for a vessel, you may:

(a) Petition any district or superior court of any county of this state to receive a judgment awarding ownership of the vessel;

(b) Apply for "registration only" as described in subsection (2) of this section;

(c) Apply for bonded certificate of ownership as described in subsection (3) of this section.

(2) What is "registration only"? It is a term used to describe registration of a vessel when a certificate of ownership is not issued because ownership is in doubt. If ownership is not contested during a three-year registration only period, the registered owner(s) may apply for certificate of ownership at the end of the three-year period.

(3) What is a bonded certificate of ownership? A bonded certificate of ownership is an ownership document issued by the department that carries the brand "bonded" and is secured by a bond for one and one-half times the value of the vessel.

(4) How do I apply for "ownership in doubt"? To apply for ownership in doubt, you must:

(a) Provide evidence of ownership of the vessel, such as but not limited to, a bill of sale or purchase agreement.

(b) Make a reasonable effort to determine ownership of the vessel by writing to the agency that issued the last known certificate of ownership or registration and request the certificate of ownership or other acceptable owner documents and releases of interest.

(5) How do I obtain ownership information from the department for purposes of applying for ownership in doubt? For purposes of this section, an individual purchaser or transferee of a vessel may request the name and address of the owner(s) of record for that vessel from the department by:

(a) Satisfying subsection (4)(a) of this section; and

(b) Completing a public disclosure form provided or approved by the department.

When satisfied, the request is for obtaining proper release(s) of interest, the department may disclose the name and address of the last owner(s) of record for that vessel.

(6) What do I do once I know the name(s) and address(s) of the last known registered and legal owner(s)? If a record of the vessel is found, you must send a certified or registered letter, return receipt requested, to each owner and secured party of record at the address shown on the last record. The letter shall contain information regarding the sender's claim to ownership and a request for the released certificate of ownership or a notarized or certified release of interest on an approved department form.

If the vessel was last registered or titled in another state or jurisdiction you must write to the agency that issued the last known certificate of ownership or registration requesting owners of record, so information may be requested as in subsection (4)(b) of this section.

(7) What do I do if no record of the vessel is found or the previous owner(s) did not respond to the certified or registered letter? You must provide an affidavit or request for bonded title or registration without title form provided or approved by the department explaining how the vessel was acquired if:

(a) No record is found; or
(b) The previous owner did not respond within fifteen days after acknowledged receipt of the letter; or

(c) The letter was returned unclaimed.
(8) When am I required to apply for a bonded certificate of ownership? A bond is required if:

(a) The seller of the vessel is a Washington state vessel dealer (dealer must secure); or

(b) In lieu of the judgment described in subsection (1)(a) of this section and there is evidence of a security agreement on the last record as found in subsection (4)(b) of this section; or

(c) Ownership of the vessel is contested after you make application for ownership in doubt and before the existing three-year ownership in doubt period has ended; or

(d) If you desire to have a certificate of ownership issued for the vessel.

(9) How long is the duration of the bond? A bond shall be for a period of three years from the date of application.

(10) In what amount is the bond issued? The bond must be in the amount of one and one-half times the value of the vessel as determined by one of the following:

(a) Information provided by any guide book or other publication of recognized standing in the vessel industry; or

(b) A value that is agreeable to the applicant and verifiable by authorized department of licensing, department of revenue, Washington vessel licensing agent, subagent or employee.

(11) If I have a bonded certificate of ownership for my vessel, how can I get a certificate of ownership without the bonded notation? To get a certificate of ownership without the bonded notation, you may apply for a certificate of ownership by submitting one of the following, in addition to other required documentation:

(a) A judgment from any district or superior court of any county of this state awarding ownership of the vessel as described in subsection (1) of this section; or

(b) The properly endorsed most previous (current) certificate of ownership or a satisfactory release of interest from the previous registered and legal owner(s); or

(c) An application to remove the bonded notation on the vessel certificate of ownership after the three-year ownership in doubt period has elapsed.

(12) If my vessel is "registration only" because ownership is in doubt, how can I get a certificate of ownership? You may apply for a certificate of ownership by submitting one of the following, in addition to other required documentation:

(a) A judgment from any district or superior court of any county of this state awarding ownership of the vessel as described in subsection (1) of this section; or

(b) A certificate of ownership properly released or a signature notarized/certified on a release of interest from the most previous registered and legal owner(s); or

(c) An application from the registered owner to remove the registration only notation on the vessel certificate of ownership after the three-year ownership in doubt period has elapsed.

(13) May I sell or release my interest in the vessel during the three-year ownership in doubt period? Yes, upon transferring ownership during the three-year ownership in doubt period, you must provide the new owner(s) with a notarized or certified release of interest. The new owner may:

(a) Provide a judgment as described in subsection (1)(a) of this section; or

(b) Apply to the department for ownership and complete the time remaining on the previous ownership in doubt period. **What does an applicant do if an acceptable release of interest as defined in WAC 308-93-460 is not available? When an applicant is unable to provide an acceptable release of interest for a vessel, the applicant may:**

(a) Petition any district or superior court of any county of this state to receive a judgment awarding ownership of the vessel; such judgment is required if ownership of the vessel is contested after the applicant makes application for ownership in doubt and before the three-year ownership in doubt period has lapsed; or

(b) Apply for "registration only" or bonded certificate of ownership as described in this rule if a judgment is unavailable as described in (a) of this subsection. The applicant must:

(i) Provide evidence of ownership of the vessel including, but not limited to, a bill of sale;

(ii) Make a reasonable effort to determine ownership of the vessel by writing to the agency that issued the last known certificate of ownership or registration. For purposes of this section, an individual purchaser or transferee of a vessel may request the name and address of the owner(s) of record for that vessel from the department by satisfying (b)(i) of this subsection and completing a form approved by the department. When the department is satisfied the request is for obtaining proper release of interest, the department may disclose the name(s) and address of the last owner(s) of record for that vessel.

(A) If a record is found, the applicant must send a certified or registered letter, return receipt requested, to each owner and secured party of record at the address shown on the last record. The letter must contain information regarding the sender's claim to ownership and a request for the released certificate of ownership or a notarized or certified release of interest.

(B) If the previous owner does not respond within fifteen days after acknowledged receipt or the letter was returned unclaimed, the applicant must provide a completed affidavit of request for bonded title or registration, explaining how the vessel was acquired;

If no record is found, the applicant must provide the completed form titled, Affidavit of Request for Bonded Title or Registration Without Title.

(iii) Determine whether to bond the vessel and apply for a certificate of ownership or apply for registration only. A bond is required if the seller of the vessel is a Washington state vessel dealer or in lieu of the judgment described in (a)

of this subsection if there is evidence of a security agreement on the last record found. A bond will be for a period of three years from the date of application and be in the amount of one and one-half times the value of the vessel as determined by one of the following:

(A) Information provided by a value guide book or other publication of recognized standing in the vessel industry; or

(B) A value that is agreeable to the applicant and verifiable by the authorized department agent or employee.

(2) If I have a bonded certificate of ownership for my vessel, how can I get a certificate of ownership without the bonded notation? In order to get a certificate of ownership without the bonded notation, you may:

(a) Submit a properly endorsed certificate of ownership or a satisfactory release of interest and make application to the department anytime during the three-year period; or

(b) After the three-year period, make application to the department.

(3) If I have a three-year vessel registration only, how can I obtain a certificate of ownership? In order to receive a certificate of ownership, you may:

(a) Submit the properly endorsed certificate of ownership or a satisfactory release of interest and make application to the department anytime during the three-year period; or

(b) After the three-year period, make application to the department.

(4) May I sell or release my interest in the vessel during the three-year ownership in doubt period? Yes. A bonded certificate of ownership may be released and provided to the buyer in the same way as any other certificate of ownership. The Washington bonded certificate of ownership may not be accepted by another state. If the other state has a similar program, they may issue their own type of bonded certificate of ownership. For registration only, provide the buyer with a notarized or certified release of interest. The new owner may either provide a judgment as described in subsection (1)(a) of this section or wait until the expiration of the time remaining on the previous ownership in doubt period and then make application for the certificate of ownership. If a notarized/certified release of interest cannot be obtained from the current registered owner, the new owner must start over with a new three-year bonded or registration only process.

WSR 03-07-095

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed March 19, 2003, 10:27 a.m., effective July 1, 2003]

Date of Adoption: February 28, 2003.

Purpose: Reduce fees for four health care credentials so revenue generated by fees is brought into alignment with costs. The four health professions affected are acupuncture, dental hygiene, massage, and naturopathic physicians.

Citation of Existing Rules Affected by this Order: Amending WAC 246-802-990, 246-815-990, 246-830-990, and 246-836-990.

Statutory Authority for Adoption: RCW 43.70.250.

Adopted under notice filed as WSR 03-03-077 on January 15, 2003.

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, 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.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule:

Effective Date of Rule: July 1, 2003.

March 18, 2003

M. C. Selecky

Secretary

PERMANENT

AMENDATORY SECTION (Amending WSR 99-08-101, filed 4/6/99, effective 7/1/99)

WAC 246-802-990 Acupuncture fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. (2) The following nonrefundable fees will be charged:

Title of Fee	Fee
License application	\$ 50.00
License renewal	((180.00)) <u>90.00</u>
Inactive license renewal	50.00
Late renewal penalty	((90.00)) <u>50.00</u>
Expired license reissuance	((90.00)) <u>50.00</u>
Expired inactive license reissuance	50.00
Duplicate license	15.00
Certification of license	25.00
Acupuncture training program application	500.00

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-815-990 Dental hygiene fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. (2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application examination and reexamination . . .	\$100.00
Renewal	((60.00)) <u>40.00</u>
Late renewal penalty	((50.00)) <u>40.00</u>
Expired license reissuance	((50.00)) <u>40.00</u>
Credentialing application	((300.00)) <u>100.00</u>
Temporary license application	((115.00)) <u>100.00</u>
Duplicate license	15.00
Certification of license	25.00
Education program evaluation	200.00

Title of Fee	Amount
Initial license	((50.00)) <u>25.00</u>
License renewal	((450.00)) <u>200.00</u>
Late renewal penalty	((225.00)) <u>100.00</u>
Expired license reissuance	((225.00)) <u>100.00</u>
Duplicate license	15.00
Certification of license	15.00
Application for reciprocity	((50.00)) <u>25.00</u>

AMENDATORY SECTION (Amending WSR 99-08-101, filed 4/6/99, effective 7/1/99)

WAC 246-830-990 Massage fees and renewal cycle.

- (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.
- (2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Written examination and reexamination	\$ 65.00
Practical examination and reexamination	50.00
Initial license	((55.00)) <u>50.00</u>
Renewal	((40.00)) <u>25.00</u>
Late renewal penalty	((40.00)) <u>25.00</u>
Expired license reissuance	((40.00)) <u>25.00</u>
Certification of license	10.00
Duplicate license	10.00

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-836-990 Naturopathic physician licensing fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

- (2) The following nonrefundable fees will be charged:

Title of Fee	Amount
Application initial/retake	((50.00)) <u>\$ 25.00</u>
State examination (initial/retake)	((50.00)) <u>25.00</u>

**WSR 03-07-096
PERMANENT RULES
DEPARTMENT OF HEALTH**

[Filed March 19, 2003, 10:31 a.m.]

Date of Adoption: March 18, 2003.

Purpose: The rules revise the current need methodology for community hospice agencies and place this methodology in rule; develop standards to implement the 2000 legislation establishing separately licensed hospice care centers and requiring a certificate of need for these centers; and set fees for the hospice care centers.

Citation of Existing Rules Affected by this Order: Amending WAC 246-310-990 Certificate of need review fees.

Statutory Authority for Adoption: Chapter 70.127 RCW.

Other Authority: Chapter 70.38 RCW.

Adopted under notice filed as WSR 03-03-097 on January 17, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

M. C. Selecky
Secretary

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NEW SECTION

WAC 246-310-290 Hospice services—Standards and need forecasting method. The following rules apply to any in-home services agency licensed to provide hospice services which has declared an intent to become Medicare certified as a provider of hospice services in a designated service area.

(1) Definitions.

(a) "ADC" means average daily census and is calculated by:

(i) Multiplying projected annual agency admissions by the most recent average length of stay in Washington (based on Center for Medicare and Medicaid Services (CMS) data) to derive the total annual days of care; and

(ii) Dividing this total by three hundred sixty-five (days per year) to determine the ADC.

(b) "Current supply of hospice providers" means:

(i) Services of all providers that are licensed and Medicare certified as a provider of hospice services or that have a valid (unexpired) certificate of need but have not yet obtained a license; and

(ii) Hospice services provided directly by health maintenance organizations who are exempt from the certificate of need program. Health maintenance organization services provided by an existing provider will be counted under (b)(i) of this subsection.

(c) "Current hospice capacity" means:

(i) For hospice agencies that have operated (or been approved to operate) in the planning area for three years or more, the average number of admissions for the last three years of operation; and

(ii) For hospice agencies that have operated (or been approved to operate) in the planning area for less than three years, an ADC of thirty-five and the most recent Washington average length of stay data will be used to calculate assumed annual admissions for the agency as a whole for the first three years.

(d) "Hospice agency" or "in-home services agency licensed to provide hospice services" means a person administering or providing hospice services directly or through a contract arrangement to individuals in places of temporary or permanent residence under the direction of an interdisciplinary team composed of at least a nurse, social worker, physician, spiritual counselor, and a volunteer and, for the purposes of certificate of need, is or has declared an intent to become Medicaid eligible or certified as a provider of services in the Medicare program.

(e) "Hospice services" means symptom and pain management provided to a terminally ill individual, and emotional, spiritual and bereavement support for the individual and family in a place of temporary or permanent residence and may include the provision of home health and home care services for the terminally ill individual.

(f) "Planning area" means each individual county designated by the department as the smallest geographic area for which hospice services are projected. For the purposes of certificate of need, a planning or combination of planning areas may serve as the service area.

(g) "Service area" means, for the purposes of certificate of need, the geographic area for which a hospice agency is

approved to provide Medicare certified or Medicaid eligible services and which consist of one or more planning areas.

(2) The department shall review hospice applications using the concurrent review cycle in this section, except when the sole hospice provider in the service area ceases operation. Applications to meet this need may be accepted and reviewed in accordance with the regular review process.

(3) Applications must be submitted and reviewed according to the following schedule and procedures:

(a) Letters of intent must be submitted between the first working day and last working day of September of each year.

(b) Initial applications must be submitted between the first working day and last working day of October of each year.

(c) The department shall screen initial applications for completeness by the last working day of November of each year.

(d) Responses to screening questions must be submitted by the last working day of December of each year.

(e) The public review and comment for applications shall begin on January 16 of each year. If January 16 is not a working day in any year, then the public review and comment period must begin on the first working day after January 16.

(f) The public comment period is limited to ninety days, unless extended according to the provisions of WAC 246-310-120 (2)(d). The first sixty days of the public comment period must be reserved for receiving public comments and conducting a public hearing, if requested. The remaining thirty days must be for the applicant or applicants to provide rebuttal statements to written or oral statements submitted during the first sixty-day period. Also, any interested person that:

(i) Is located or resides within the applicant's health service area;

(ii) Testified or submitted evidence at a public hearing; and

(iii) Requested in writing to be informed of the department's decision, shall also be provided the opportunity to provide rebuttal statements to written or oral statements submitted during the first sixty-day period.

(g) The final review period shall be limited to sixty days, unless extended according to the provisions of WAC 246-310-120 (2)(d).

(4) Any letter of intent or certificate of need application submitted for review in advance of this schedule, or certificate of need application under review as of the effective date of this section, shall be held by the department for review according to the schedule in this section.

(5) When an application initially submitted under the concurrent review cycle is deemed not to be competing, the department may convert the review to a regular review process.

(6) Hospice agencies applying for a certificate of need must demonstrate that they can meet a minimum average daily census (ADC) of thirty-five patients by the third year of operation. An application projecting an ADC of under thirty-five patients may be approved if the applicant:

(a) Commits to maintain Medicare certification;

(b) Commits to serve one or more counties that do not have any Medicare certified providers; and

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(c) Can document overall financial feasibility.

(7) Need projection. The following steps will be used to project the need for hospice services.

(a) Step 1. Calculate the following four statewide predicted hospice use rates using CMS and department of health data or other available data sources.

(i) The predicted percentage of cancer patients sixty-five and over who will use hospice services. This percentage is calculated by dividing the average number of hospice admissions over the last three years for patients the age of sixty-five and over with cancer by the average number of past three years statewide total deaths sixty-five and over from cancer.

(ii) The predicted percentage of cancer patients under sixty-five who will use hospice services. This percentage is calculated by dividing the average number of hospice admissions over the last three years for patients under the age of sixty-five with cancer by the current statewide total of deaths under sixty-five with cancer.

(iii) The predicted percentage of noncancer patients sixty-five and over who will use hospice services. This percentage is calculated by dividing the average number of hospice admissions over the last three years for patients age sixty-five and over with diagnoses other than cancer by the current statewide total of deaths over sixty-five with diagnoses other than cancer.

(iv) The predicted percentage of noncancer patients under sixty-five who will use hospice services. This percentage is calculated by dividing the average number of hospice admissions over the last three years for patients under the age of sixty-five with diagnoses other than cancer by the current statewide total of deaths under sixty-five with diagnoses other than cancer.

(b) Step 2. Calculate the average number of total resident deaths over the last three years for each planning area.

(c) Step 3. Multiply each hospice use rate determined in Step 1 by the planning areas average total resident deaths determined in Step 2.

(d) Step 4. Add the four subtotals derived in Step 3 to project the potential volume of hospice services in each planning area.

(e) Step 5. Inflate the potential volume of hospice service by the one-year estimated population growth (using OFM data).

(f) Step 6. Subtract the current hospice capacity in each planning area from the above projected volume of hospice services to determine unmet need.

(g) Determine the number of hospice agencies in the proposed planning area which could support the unmet need with an ADC of thirty-five.

(8) In addition to demonstrating need under subsection (7) of this section, hospice agencies must meet the other certificate of need requirements including WAC 246-310-210 - Determination of need, WAC 246-310-220 - Determination of financial feasibility, WAC 246-310-230 - Criteria for structure and process of care, and WAC 246-310-240 - Determination of cost containment.

(9) If two or more hospice agencies are competing to meet the same forecasted net need, the department shall consider at least the following factors when determining which proposal best meets forecasted need:

(a) Improved service in geographic areas and to special populations;

(b) Most cost efficient and financially feasible service;

(c) Minimum impact on existing programs;

(d) Greatest breadth and depth of hospice services;

(e) Historical provision of services; and

(f) Plans to employ an experienced and credentialed clinical staff with expertise in pain and symptom management.

(10) Failure to operate the hospice agency in accordance with the certificate of need standards may be grounds for revocation or suspension of an agency's certificate of need, or other appropriate action.

NEW SECTION

WAC 246-310-295 Hospice care center—Standards.

The following rules apply to any in-home services agency licensed to provide hospice services, that is or has declared an intent to become additionally licensed to provide hospice care center services.

(1) Definitions.

(a) "Applicant" means an in-home services agency licensed to provide hospice services under chapter 246-335 WAC.

(b) "Hospice care center" means a homelike, noninstitutional facility where hospice services are provided, and that meet the requirements for operation under RCW 70.127.280 and chapter 246-335 WAC.

(2) The department shall review hospice care center applications using the concurrent review cycle in this section.

(3) Applications must be submitted and reviewed according to the following schedule and procedures.

(a) Letters of intent must be submitted between the first working day and last working day of October of each year.

(b) Initial applications must be submitted between the first working day and last working day of November of each year.

(c) The department shall screen initial applications for completeness by the last working day of December of each year.

(d) Responses to screening questions must be submitted by the last working day of January of each year.

(e) The public review and comment for applications begins on February 16 of each year. If February 16 is not a working day in any year, then the public review and comment period must begin on the first working day after February 16.

(f) The public comment period is limited to ninety days, unless extended under WAC 246-310-120 (2)(d). The first sixty days of the public comment period must be reserved for receiving public comments and conducting a public hearing, if requested. The remaining thirty days must be for the applicant or applicants to provide rebuttal statements to written or oral statements submitted during the first sixty-day period. Any interested person that:

(i) Is located or resides within the applying hospice agency's health service area;

(ii) Testified or submitted evidence at a public hearing; and

(iii) Requested in writing to be informed of the department's decision, shall also be provided the opportunity to pro-

vide rebuttal statements to written or oral statements submitted during the first sixty-day period.

(g) The final review period is limited to sixty days, unless extended under WAC 246-310-120 (2)(d).

(4) Any letter of intent or certificate of need application submitted for review in advance of this schedule, or certificate of need application under review as of the effective date of this section, shall be held by the department for review according to the schedule in this section.

(5) If an application initially submitted under the concurrent review cycle is deemed not to be competing, the department may convert the review to a regular review process.

(6) An applicant must provide the following documentation to demonstrate that the applicant's existing patient base is sufficient to support the creation of the hospice care center.

(a) Step 1. Determine the average total days of care provided in the applicant's preceding three years of operation. If the applicant has been in operation for less than three years, assume an ADC of thirty-five to calculate potential days of care;

(b) Step 2. Multiply the above average days of care by the applicant's annual percentage of patients requiring care in settings other than their private home to estimate the number of potential patient days. If the applicant has been in operation for less than three years, multiply the potential days of care by the statewide percentage of hospice patients requiring care in settings other than their private home;

(c) Step 3. Divide the estimated number of patient days by three hundred sixty-five (days per year) to estimate the average daily census for the applicant;

(d) Step 4. Assume a minimum occupancy of sixty-five percent to determine the number of beds the applicant could request in their application.

(7) If applying for more beds than provided for in subsection (6) of this section, the applicant must provide documentation, methodology and assumptions that support the applicant's ability to sustain the additional beds.

(8) The following occupancy requirements apply to all applicants:

(a) The average occupancy rate of the beds in the center must be projected to be at least fifty percent for the first three years following completion of the project;

(b) A minimum occupancy rate of sixty-five percent should be maintained after the first three years of operation; and

(c) If applying to add beds to an existing hospice care center the applicant must document that the average occupancy of the beds in the hospice care center was at least eighty percent for the nine months immediately preceding the submittal of the proposal.

(9) The applicant must document that they can maintain the minimum occupancy rate and still meet the following requirements:

(a) No more than forty-nine percent of the hospice agency's patient care days, in the aggregate on a biennial basis, can be provided in the hospice care center, under RCW 70.127.280; and

(b) The maximum number of beds in a hospice care center is twenty, under chapter 70.127 RCW.

(10) Failure to operate the hospice care center in accordance with the application relied upon by the department in making its decision may be grounds for revocation or suspension of a center's certificate of need, or other appropriate action.

AMENDATORY SECTION (Amending WSR 02-14-051, filed 6/27/02, effective 7/28/02)

WAC 246-310-990 Certificate of need review fees. (1) An application for a certificate of need under chapter 246-310 WAC ((~~shall~~)) must include payment of a fee consisting of the following:

- (a) A review fee based on the facility/project type;
- (b) ((~~When~~)) If more than one facility/project type applies to an application, the review fee for each type of facility/project must be included.

Facility/Project Type	Review Fee
Ambulatory Surgical Centers/Facilities	\$12,964
Amendments to Issued Certificates of Need	\$8,171
Emergency Review	\$5,259
Exemption Requests	
• Continuing Care Retirement Communities (CCRCs)/Health Maintenance Organization (HMOs)	\$5,259
• Bed Banking/Conversions	\$856
• Determinations of Nonreviewability	\$1,222
• Hospice Care Center	\$1,101
• Nursing Home Replacement/Renovation Authorizations	\$1,101
• Nursing Home Capital Threshold under RCW 70.38.105 (4)(e) (Excluding Replacement/Renovation Authorizations)	\$1,101
• Rural Hospital/Rural Health Care Facility	\$1,101
Extensions	
• Bed Banking	\$489
• Certificate of Need/Replacement Renovation Authorization Validity Period	\$489
Home Health Agency	\$15,654
Hospice Agency	\$13,942
<u>Hospice Care Centers</u>	<u>\$8,171</u>
Hospital (Excluding Transitional Care Units-TCUs, Ambulatory Surgical Center/Facilities, Home Health, Hospice, and Kidney Disease Treatment Centers)	\$25,684
Kidney Disease Treatment Centers	\$15,900
Nursing Homes (Including CCRCs and TCUs)	\$29,354

PERMANENT

(2) The fee for amending a pending certificate of need application (~~(shall be)~~) is determined as follows:

(a) (~~When~~) If an amendment to a pending certificate of need application results in the addition of one or more facility/project types, the review fee for each additional facility/project type must accompany the amendment application;

(b) (~~When~~) If an amendment to a pending certificate of need application results in the removal of one or more facility/project types, the department shall refund to the applicant the difference between the review fee previously paid and the review fee applicable to the new facility/project type; or

(c) (~~When~~) If an amendment to a pending certificate of need application results in any other change as identified in WAC 246-310-100, a fee of one thousand three hundred nine dollars must accompany the amendment application.

(3) (~~When~~) If a certificate of need application is returned by the department (~~(in accordance with the provisions of)~~) under WAC 246-310-090 (2)(b) or (e), the department shall refund seventy-five percent of the review fees paid.

(4) (~~When~~) If an applicant submits a written request to withdraw a certificate of need application before the beginning of review, the department shall refund seventy-five percent of the review fees paid by the applicant.

(5) (~~When~~) If an applicant submits a written request to withdraw a certificate of need application after the beginning of review, but before the beginning of the ex parte period, the department shall refund one-half of all review fees paid.

(6) (~~When~~) If an applicant submits a written request to withdraw a certificate of need application after the beginning of the ex parte period the department shall not refund any of the review fees paid.

(7) Review fees for exemptions and extensions (~~(shall be)~~) are nonrefundable.

WSR 03-07-098
PERMANENT RULES
CRIMINAL JUSTICE
TRAINING COMMISSION
[Filed March 19, 2003, 10:47 a.m.]

Date of Adoption: March 12, 2003.

Purpose: WAC 139-30-015, the change provides a fee increase for initial certification.

WAC 139-35-015, the change provides consistency with the language adopted in chapter 18.165 RCW, Private investigators, formerly private detectives. It includes a fee increase for initial certification.

It would establish the responsibility of the employer to ensure that annual proficiency standards are met with each weapon the employee carries, and recognizes proof of annual firearm proficiency in lieu of a firearms recertification process that was confusing and cumbersome for the applicants and those responsible for reissuing the license.

Statutory Authority for Adoption: RCW 43.101.080.

Adopted under notice filed as WSR 02-21-088 on October 21, 2002.

Changes Other than Editing from Proposed to Adopted Version: WAC 139-30-015, fee change from \$45 to \$31.

WAC 139-35-015, fee change from \$45 to \$31. Removed subsection (3) "All firearms carried by armed private investigators in the performance of their duties must be owned by the employer." Change subsection (4) to read "It shall be the responsibility of the employer to insure that the armed private detective demonstrates proficiency standards on an annual basis with each firearm that he/she is certified to use. Proficiency standards shall be set by the commission."

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 4, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

March 17, 2003

Sonya Hirsch

for Sharon M. Tolton

Deputy Director

AMENDATORY SECTION (Amending WSR 92-02-040, filed 12/24/91, effective 1/24/92)

WAC 139-30-015 Firearms certification—Application. (1) Any application for firearms certification shall:

(a) Be filed with the commission on a form provided by the commission;

(b) Be signed by the principal owner, principal partner, or a principal corporate officer, of the licensed private security company employing the applicant;

(c) Establish through required documentation or otherwise that applicant:

(i) Is at least twenty-one years of age; and

(ii) Possesses a valid and current private security guard license.

(d) Be accompanied by payment of a processing fee of (~~thirty~~) thirty-one dollars.

(2) After receipt and review of an application, the commission will provide written notification within ten business days to the requesting company regarding applicant's eligibility to obtain and possess a firearms certificate.

(3) An armed private detective must obtain a separate firearm certificate for each firearm that he/she is authorized to use in the performance of his/her duties. All firearms carried by armed private security guards in the performance of their duties must be owned or leased by the employer.

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(4) It shall be the responsibility of the employer to insure that the armed private detective demonstrates proficiency standards on an annual basis with each firearm that he/she is certified to use. Proficiency standards shall be set by the commission.

AMENDATORY SECTION (Amending WSR 92-02-041, filed 12/24/91, effective 1/24/92)

WAC 139-35-015 Firearms certification—Application. (1) Any application for firearms certification shall:

(a) Be filed with the commission on a form provided by the commission;

(b) Be signed by the principal owner, principal partner, principal corporate officer, or designated agent of the licensed private detective agency employing the applicant;

(c) Establish through required documentation or otherwise that applicant:

(i) Is at least twenty-one years of age; and

(ii) Possesses a valid and current private detective license.

(d) Be accompanied by payment of a processing fee of ~~((thirty))~~ thirty-one dollars.

(2) After receipt and review of an application, the commission will provide written notification within ten days to the requesting agency regarding applicant's eligibility to obtain and possess a firearms certificate.

(3) An armed private detective must obtain a separate firearm certificate for each firearm that he/she is authorized to use in the performance of his/her duties.

(4) It shall be the responsibility of the employer to insure that the armed private detective demonstrates proficiency standards on an annual basis with each firearm that he/she is certified to use. Proficiency standards shall be set by the commission.

WSR 03-07-099
PERMANENT RULES
CRIMINAL JUSTICE
TRAINING COMMISSION

[Filed March 19, 2003, 10:48 a.m.]

Date of Adoption: March 12, 2003.

Purpose: WAC 139-05-210 and 139-05-820, restructure text.

Statutory Authority for Adoption: RCW 43.101.080.

Adopted under notice filed as WSR 03-01-038 on December 9, 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 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.

March 17, 2003

Sonya Hirsch

for Sharon M. Tolton

Deputy Director

AMENDATORY SECTION (Amending WSR 00-17-017, filed 8/4/00, effective 9/4/00)

WAC 139-05-210 Basic law enforcement equivalency certification. (1) A certificate of equivalent basic law enforcement training shall be issued only to applicants who successfully complete the equivalency process as required by the Washington state criminal justice training commission. For this purpose, the term "process" shall include all documentation and prerequisites set forth in subsection (6) of this section, and successful completion of all knowledge and skills requirements within the basic equivalency academy. A certificate of equivalent basic law enforcement training shall be recognized in the same manner as the certificate of completion of the basic law enforcement academy.

(2) Eligibility for participation in the basic equivalency process shall be limited to regular, full-time, commissioned enforcement officers who otherwise are eligible to attend the basic law enforcement academy, and who have attained basic certification through completion of a basic training program in this or another state. For this purpose, the term "basic training program" shall not include any military or reserve training program, or any federal training program not otherwise approved by a majority of ~~((the law enforcement representatives within))~~ the commission membership.

(3) The participation of any eligible and approved applicant for a certificate of equivalent basic law enforcement training shall be effected within, and limited to, the first available session of the basic equivalency academy following such applicant's date of hire; provided that no applicant shall be required to attend a session of the basic equivalency academy which is conducted within the initial sixty days of the employment for which certification is requested.

It shall be the responsibility of the applicant's agency to ensure that all necessary forms and documentation are completed and submitted to the commission in a timely manner and as necessary to ensure that the participation provided by this section is effected.

The participation of any applicant in any session of the basic equivalency academy not otherwise provided herein shall require the approval of the commission.

(4) In those instances wherein an applicant has attended more than one basic training program, eligibility for participation in the basic equivalency process shall not be approved if such applicant, for whatever reason, failed to successfully complete the most recent of such programs attended.

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(5) The decision to request an officer's participation within the equivalency process shall be discretionary with the head of the officer's employing agency, who shall advise the commission of that decision by appropriate notation upon the hiring notification submitted to the commission for such officer. Upon receipt of such notification, the commission shall provide to such agency head all necessary forms and information required for the processing of a request for a certificate of equivalent basic training.

(6) Upon approval of an applicant's eligibility to participate in the equivalency process, the applicant's employing agency shall submit to the commission the following documentation as a precondition of participation within such process:

(a) A copy of applicant's current and valid Washington state driver's license;

(b) A copy of applicant's current and valid basic first-aid card;

(c) A statement of applicant's health and physical condition by an examining physician;

(d) A record of applicant's firearms qualification;

(e) A liability release agreement by the applicant; and

(f) A criminal records check regarding such applicant.

(7) If such training has not been completed previously, the applicant shall be required to complete the commission's forty hour emergency vehicle operation course, as scheduled by the commission.

(8) Upon completion of the equivalency process and review and evaluation of applicant's performances therein, the commission shall:

(a) Issue a certificate of equivalent basic training;

(b) Issue a certificate of equivalent basic training upon applicant's successful completion of additional training as the training commission may require; or

(c) Require completion of the basic law enforcement academy.

(9) Any action or determination by the commission staff regarding a requestor or applicant for equivalency certification shall, upon written request of the involved individual or agency, be reviewed by the executive director of the training commission.

(10) Any waiver of, or variance in, any above requirement for equivalency participation and/or certification may be granted by the commission if it determines that sufficient justification exists for such action.

AMENDATORY SECTION (Amending WSR 02-02-004, filed 12/20/01, effective 1/20/02)

WAC 139-05-820 Basic reserve equivalency certification. (1) a certificate of equivalency basic reserve training shall be issued only to applicants who successfully complete the equivalency process as required by the commission. For this purpose, the term "process" shall include all documentation and prerequisites set forth in subsection (6) of this section, and successful completion of all knowledge and skills requirements within the basic reserve equivalency academy. A certificate of equivalency basic reserve training shall be recognized in the same manner as the certificate of completion of the basic reserve academy.

(2) Eligibility for participation in the basic reserve equivalency process shall be limited to reserve commissioned law enforcement officers who have attained basic certification through completion of a basic training program in this or another state. For this purpose, the term "basic training program" shall not include any military or reserve training, or any federal training program not otherwise approved by a majority of ~~((the law enforcement representatives within))~~ the commission membership.

(3) The participation of any eligible and approved applicant for a certificate of equivalent basic reserve training shall be effected within, and limited to, the first available session of a basic reserve academy following such applicant's date of hire; provided that no applicant shall be required to attend a session of the basic reserve equivalency academy which is conducted within the initial sixty days of employment for which certification is requested.

It shall be the responsibility of the applicant's agency to ensure that all necessary forms and documentation are completed and submitted to the commission in a timely manner and as necessary to ensure that the participation provided by this section is effected.

The participation of any applicant in any session of the basic reserve equivalency not otherwise provided herein shall require the approval of the commission.

(4) In those instances wherein an applicant has attended more than one basic training program, eligibility for participation in the basic reserve equivalency process shall not be approved if such applicant, for whatever reason, failed to successfully complete the most recent of such programs attended.

(5) The decision to request an officer's participation within the equivalency process shall be discretionary with the head of the officer's employing agency, who shall advise the commission of that decision by appropriate notification upon the hiring of the officer. Upon receipt of such notification, the commission shall provide to such agency head all necessary forms and information required for the processing of a request for a certificate of equivalent basic reserve training.

(6) Upon approval of an applicant's eligibility to participate in the equivalency process, the applicant's employing agency shall submit to the commission all requested records, information and proof of background check as a precondition of participation with such process.

WSR 03-07-100

PERMANENT RULES

CRIMINAL JUSTICE

TRAINING COMMISSION

[Filed March 19, 2003, 10:49 a.m.]

Date of Adoption: March 12, 2003.

Purpose: WAC 139-05-915, to update the current training standards being offered to canine handlers and to set standards of minimum performance of canine teams prior to the team being used for law enforcement or corrections work.

Statutory Authority for Adoption: RCW 43.101.080.

Adopted under notice filed as WSR 03-03-091 on January 16, 2003.

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 8, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

March 17, 2003

Sonya Hirsch

for Sharon M. Tolton

Deputy Director

AMENDATORY SECTION (Amending WSR 00-17-017, filed 8/4/00, effective 9/4/00)

WAC 139-05-915 Requirements of training for ~~(police)~~ law enforcement and corrections dog handlers and certification of canine teams. (1) Title and scope: These rules are intended to set minimum standards of performance for the certification of canine teams that are used for law enforcement or corrections purposes. This process is not related to nor does it have any effect upon the requirements for peace officer certification. Nothing in these rules is intended to limit the use of canine teams employed by other state or federal agencies for law enforcement purposes, or the use of volunteer canine teams where the handler is not a Washington peace officer or corrections officer.

(2) For purposes ~~(herein)~~ of this section, the following definitions shall apply:

(a) "Dog handler" means any fully commissioned law enforcement officer or corrections officer of a state, county, city, municipality, or combination thereof, agency who is responsible for the routine care, control, and utilization of a police dog within a law enforcement ~~(patrol)~~ or ~~(investigative)~~ corrections assignment; and

(b) "Canine team" means a specific officer and a specific canine controlled by that officer in the capacity of handler, formally assigned by the employing agency to work together in the performance of law enforcement, or corrections duties.

(c) "Training" means any structured classroom or practical learning exercise conducted, evaluated, and documented by an experienced dog handler or trainer, ~~(for the purpose of developing)~~ certified as an instructor with recognized expertise on canine subjects associated with the development of the trainee's competency in the care, control, and utilization of a police dog.

(d) "Evaluator" means a certified peace officer or corrections officer, who has a minimum of three years experience as a canine handler and is recognized as a trainer of canines by a professional organization of police and/or corrections canine handlers/trainers or by the handler's employing agency. The trainer must have trained a canine team in accordance with the training requirements of WAC 139-05-915, or be recognized by the commission as a certified instructor with expertise in canine training of a specific police canine subject for the purpose of testing and certifying canine handlers and dogs to work as a canine team.

~~((2))~~ (3) A dog handler shall, as a precondition of such assignment, successfully complete the basic law enforcement academy program, or basic correction officer academy or otherwise comply with the basic training requirement prescribed by WAC 139-05-200 and 139-05-210 of the training commission.

~~((3))~~ (4) Prior to, or within the first six months of such assignment, a dog handler shall successfully complete training according to the nature and purpose of utilization of the police dog for which such handler is responsible. ~~(Categories of utilization and concomitant training standards are prescribed as follows:)~~

(a) ~~(Generalist)~~ A dog handler who is responsible for the routine and regular utilization of a police dog within general patrol or investigative activities, shall successfully complete ~~(at least three hundred ninety)~~ a minimum of four hundred hours of training which shall include, but not be limited to:

- (i) Philosophies/theories of police ~~((K-9))~~ canine;
- (ii) Legal and liability aspects, including applicable department policies;
- (iii) Public relations;
- (iv) Care and maintenance;
- (v) Obedience and control;
- (vi) Tracking;
- (vii) Trailing;
- (viii) Area searching;
- (ix) Building searching;
- (x) Evidence searching;
- (xi) Pursuit/holding; and
- (xii) Master protection.

(b) ~~(General detection)~~ A dog handler who is responsible for the primary and specialized utilization of a police dog in the search for and detection of specific substances, excluding explosives, shall successfully complete ~~(at least one hundred eighty)~~ a minimum of two hundred hours of training which shall include, but not be limited to:

- (i) Philosophies/theories of police ~~((K-9))~~ canine;
- (ii) Legal and liability aspects, including applicable department policies;
- (iii) Public relations;
- (iv) Care and maintenance;
- (v) Obedience and control;
- (vi) Area searching;
- (vii) Building searching;
- (viii) Evidence searching; and
- (ix) Detection of specific substances.

(c) ~~(Explosives detection)~~ A dog handler who is responsible for the primary and specialized utilization of a

police dog in the search for and detection of explosive substances and devices, shall successfully complete (~~at least three hundred ninety~~) a minimum of two hundred hours of training which shall include, but not be limited to:

(i) Philosophies/theories of police (~~(K-9)~~) canine;
 (ii) Legal and liability aspects, including applicable department policies;

- (iii) Public relations;
- (iv) Care and maintenance;
- (v) Obedience and control;
- (vi) Area searching;
- (vii) Building searching;
- (viii) Evidence searching; and
- (iv) Detection of explosives.

(d) (~~(Master protection)~~) A dog handler who is responsible for the routine and regular utilization of a police dog solely for self-protection and assistance in hostile or potentially hostile situations, shall successfully complete at least one hundred eighty hours of training which shall include, but not be limited to:

(i) Philosophies/theories of police (~~(K-9)~~) canine;
 (ii) Legal and liability aspects, including applicable department policies;
 (iii) Public relations;
 (iv) Care and maintenance;
 (v) Obedience and control;
 (vi) Pursuit/holding; and
 (vii) Master protection.

(5) The commission shall develop and adopt a minimum performance standard for canine teams performing specific law enforcement or corrections functions. It shall be the handler's responsibility to keep their canines under control at all times. Each handler must be able to make his/her canine perform to a level that is deemed acceptable by the commission in the category for the team's intended use as a condition of certification.

(6) Certification of canine teams:

(a) The handler and the canine will be considered as a team and it is the team who will be certified. If the canine changes handlers, a new team exists and the team will need to be certified.

(b) A dog handler may not use a canine for police purposes unless the handler is certified to handle a specific canine for a specific purpose.

(c) In evaluating the proficiency of the canine team, the evaluators shall use the standards approved by the commission for that particular skill category. Performance shall be rated on a pass/fail basis. The evaluator shall have the discretion to discontinue the testing if excessive time has been spent without results, or if there is a concern about safety issues involving the canine, handler, or equipment.

(d) The commission shall certify a canine team who can successfully show proficiency, under scrutiny of a canine evaluator, in one or more of the following areas of patrol and investigation/or detection.

- (i) Patrol and investigation:
 - (A) Obedience;
 - (B) Protection and control;
 - (C) Area search;
 - (D) Building search; and

(E) Tracking.

(ii) Detection:

(A) Buildings;

(B) Vehicles;

(C) Exterior search;

(D) Obedience; and

(E) Building search.

(iii) Expiration of certification: Each certification issued pursuant to these rules shall remain valid as long as the canine team does not change. A canine team's certification shall lapse if the specific handler and canine originally paired at the time of certification, cease to perform canine team functions together. It is recommended that teams recertify on an annual basis.

(iv) Failure to pass certification: If the canine team fails any phase of an evaluation, he/she must be reevaluated in that particular phase.

(v) Appeal: Any handler who believes there have been improper procedures applied in the testing process, may file an appeal with the commission in writing. This appeal must be filed within thirty days of the testing date pursuant to WAC 139-03-020.

(7) Agency required to keep records:

(a) Each agency shall keep training and performance records on canines. The records must stay with the agency responsible for the canine team. The records shall be made available for review in the event that the canine is sold or transferred to another agency. The records shall include, at a minimum, but not be limited to:

(i) Microchip number;

(ii) Canine's name;

(iii) Breed;

(iv) Training received;

(v) Certification date;

(vi) Date acquired or purchased;

(vii) Source from which the canine was acquired;

(viii) Purpose, use, or assignment of canine;

(ix) Handler's name;

(x) The date and reason canine was released from service; and

(xi) Copies of all incident reports in which use of the canine resulted in use of force.

(b) These records shall be retained for a period of one year from the date the canine is removed from active service unless a longer retention is required by statute or local ordinance.

(c) It shall be the responsibility of the handler to advise his/her employing agency of the fact that he/she has met the standards for canine certification. The proof of certification with the evaluator's signature along with a request for canine certification shall be submitted to the commission by the employing agency. This shall be considered as a request for certification. Upon verification that the minimum requirements have been met, the commission shall issue a certificate of certification to the canine team.

(8) Canine recommended to be microchipped:

(a) It is recommended that a canine intended to be used by a law enforcement or corrections agency, be positively identified by having a microchip inserted in the canine. Any canine that is sold by a vendor to a Washington state govern-

mental agency for use as a law enforcement or corrections canine should be able to be identified by microchip placed in the canine at the vendor's expense prior to the canine being sold to the law enforcement or corrections agency.

(b) Once the microchip has been inserted, it is recommended that it not be removed except for medical necessity. If it becomes necessary to remove the microchip, the reason for the removal must be documented and entered into the dog's training records, and a new microchip inserted if medically appropriate.

WSR 03-07-104

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 02-11—Filed March 19, 2003, 11:34 a.m.]

Date of Adoption: March 19, 2003.

Purpose: This rule revision is necessary to make good use of the remaining moneys and achieve water savings benefitting the state's public waters by: (1) Raising the limit of project funding for each public entity from 1.5 million to 2.5 million; (2) exempting loans from the project funding limit once they are fully repaid; (3) allowing projects with significant public benefit to receive a larger portion of funding in grants; (4) restricting funding of emergency projects to loans; (5) allowing funding to be provided to the Yakima River Basin Water Enhancement Project (YRBWEP) projects as monies are available; (6) exempting funding of YRBWEP projects from the limit set on project funding; and (7) setting loan interest rates at the beginning of the state fiscal year for loans issued that [no further information supplied by agency.]

Citation of Existing Rules Affected by this Order:
Amending chapter 173-170 WAC.

Statutory Authority for Adoption: The rule is based on Referendum 38, codified as chapter 43.99E RCW. Further ability to adopt and change regulations of this class is included in RCW 90.54.040.

Adopted under notice filed as WSR 03-02-033 on December 23, 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 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 7, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 8, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

March 19, 2003

Tom Fitzsimmons

Director

AMENDATORY SECTION (Amending WSR 90-20-109, filed 10/2/90, effective 11/2/90)

WAC 173-170-010 Purpose and authority. The purpose of this chapter is to establish requirements for the grant and loan program covering rehabilitation, improvement, and construction of agricultural water supply facilities pursuant to Referendum 38, chapter 43.99E RCW. The department shall provide grants and loans to applicants for water supply facilities for agricultural use alone or in combination with fishery, recreational, or other beneficial uses of water. In this regard, an objective of providing state assistance to public bodies engaged in irrigation shall be to assist those entities in improving their efficiency of water use beyond current levels.

Note: All statutes, rules, or regulations cited in this chapter are available for review at Department of Ecology, ((~~Mailstop PV-11, Olympia, WA 98504-8711~~)) P.O. Box 47600 Olympia, WA 98504-7600.

AMENDATORY SECTION (Amending WSR 90-20-109, filed 10/2/90, effective 11/2/90)

WAC 173-170-020 Definitions. (1) "Department" means the Washington state department of ecology.

(2) "Agreement" means a binding legal document containing all applicable terms and conditions pertaining to loans and/or grants entered into under Referendum 38 which is signed by the program manager for the department's water resources program and by the duly authorized official of the applicant.

(3) "Agricultural water supply facility" means a water supply and distribution system used for agricultural purposes and owned or operated by a public body, including but not limited to all equipment, utilities, structures, real property, and interests in and improvements on real property necessary for or incidental to the acquisition, construction, installation, or use of any such water supply or distribution system.

(4) "Applicant" means the public body making a request for financial assistance under Referendum 38.

(5) "Class A project" means a construction element associated with an agricultural water supply facility which:

(a) Results in improved water use efficiency and/or quantitative water savings as determined by the department; and

(b) Is one or more of the following: (i) Canal and lateral linings; (ii) piped conveyance and distribution system; (iii) consolidation and/or realignment of delivery systems; (iv) flow measuring devices, e.g., flow control devices; (v) entire structures/regulating structures (which are new or replace obsolete ones) including: (A) Checks, (B) checkdrops, (C) siphons, (D) turnouts, (E) flumes, (F) reregulation reservoirs; (vi) multiple use water storage dams and reservoirs; (vii) automation with central control of regulating structures including on-off control of pumping plants in canals and lat-

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erals; (viii) new booster pumps for pressurized systems; (ix) project pumping plants;

(c) In the event there are technological advances that increase water use efficiency and/or result in significant water savings that are not described in (a) of this subsection, such project element(s) will be evaluated as a Class A project by the department.

(6) "Class B project" means a construction element associated with an agricultural water supply facility which:

(a) Does not contribute to quantitative water savings as determined by the department; and

(b) Is one or more of the following: (i) In-line water withdrawal pumping plant; (ii) well drilling, well pumps; (iii) diversion dams; (iv) replacement, rehabilitation, or improvement of in-line booster pump(s); (v) rehabilitation or improvement of storage dam(s) or part(s) thereof.

(7) "Emergency project" means a capital improvement construction element to repair, due to natural causes (except drought), water supply, diversion or conveyance facilities, which is necessary to prevent unsafe conditions or ensure the continued delivery or conveyance of water in the agricultural water supply system.

(8) "Financial assistance" means grants and loans as authorized by chapter 43.99E RCW, Referendum 38.

(9) "Fisheries facility" means a construction element associated with an agricultural water supply facility which:

(a) Is identified as an integral element of a project for the construction, rehabilitation, and/or improvement of an agricultural water supply facility; and

(b) Will provide recognized benefits to the anadromous and/or resident fish species of the state.

(10) "Implementation phase" means the acquisition, design, construction, and improvement of agricultural water supply facilities within an irrigation district or a specific area or drainage basin for storing, diverting, transporting, or distributing water to land for irrigation and for protecting and enhancing fisheries, recreational, or other beneficial uses that may be associated with such facilities.

(11) "Local clearinghouse" means the county or regional comprehensive planning agency designated to serve as a coordinating office for certain local areas. A list of clearinghouses is available from the department. The local clearinghouses review proposed projects for conformance to regional plans, ask for comments from other agencies, and relay these remarks back to the applicant. This process helps assure that policies and comprehensive plans of cities, counties, or regions will be followed.

(12) "Payment schedule" means the due dates for loan payments and any interest thereon, as included in the loan agreement.

(13) "Planning phase" means the preparation of a comprehensive water conservation plan which conforms with WAC 173-170-060, which covers the applicant's entire jurisdiction and service area.

(14) "Plans and specifications" means engineering information and calculations to support the project and construction drawings with necessary engineering detail of the project and complete material specifications and standards to support the drawings and project. These will be prepared in sufficient detail and, upon approval by the department, become part of

the bid documents which allow contractors to bid on and construct agricultural water supply facilities or attendant fisheries facilities or recreational facilities or a portion thereof.

(15) "Public body" means the state of Washington or any agency, political subdivision, taxing district, or municipal or public corporation thereof; an agency of the federal government; and those Indian tribes which may constitutionally receive grants or loans from the state of Washington.

(16) "Recreational facility" means a water and/or water-associated system which:

(a) Is identified as an integral element of an agricultural water supply facility; and

(b) Will provide recognized benefits for human use and recreation through fishing, boating, water skiing, swimming, rafting, picnicking, and/or camping.

(17) "Referendum 38" means the grant and loan financial assistance program and its procedures, which pertain to agricultural water supply facilities alone or in combination with fishery, recreational, or other beneficial uses of water, as authorized in chapter 43.99E RCW.

(18) "Request for financial assistance" means the formal application packet, as described in WAC 173-170-030 and 173-170-060, submitted to the department requesting grant and/or loan funds to accomplish an eligible project.

(19) ("~~Small parcels~~") means those lands which:

~~(a) Have been platted or subdivided prior to the enactment of the 1985 amendment to RCW 58.17.310; and~~

~~(b) Are entitled to receive irrigation water for noncommercial use; and~~

~~(c) Lie wholly within an irrigation district established under state laws prior to July 28, 1985.~~

(20)) "Water use efficiency elements" means those implementation projects or portions thereof which result in reduced operational and conveyance losses and improved delivery of requisite amounts of water to farms within the limits of the pertinent water right permit or certificate.

(20) "Yakima River Basin Water Enhancement Project" (YRBWEP) is a federal, tribal, state and local cooperative program for improving water supply, habitat and stream flow conditions in the Yakima River Basin of Washington. The project was originally authorized by Congress in 1979 with subsequent implementing legislation being passed in 1984 for fish passage improvements and in 1994 for water conservation and related elements.

AMENDATORY SECTION (Amending WSR 90-20-109, filed 10/2/90, effective 11/2/90)

WAC 173-170-040 Comprehensive water conservation plan—Contents—Funding. The comprehensive water conservation plan, which is the ultimate work product due at the end of the planning phase, will address and provide information on the following topics for the geographical area indicated in the request for financial assistance:

Applicant Organization

(1) Applicant's statutory authority; history of organization management; assessment authority; and operation procedures and management policies.

Land Base and Land Use

(2) Layout map showing:

(a) Boundaries of the applicant's jurisdiction and service area;

(b) Location of: (i) The lands which are assessed by the applicant, and (ii) those lands to which water is delivered in accordance with the water rights or water right claims or otherwise;

(c) Land use information including total acres irrigated over a representative historical period and cropping patterns for each year of a recent five-year period.

Water Supply, Use, and Rights

(3) Layout map showing location of: (a) Natural features (streams, rivers, lakes, ground water aquifers) including those in the watershed(s) where the water supply originates; and (b) all of the applicant's existing water supply facilities inside and out of its service area.

(4) Information on the applicant's and/or pertinent individual's water rights and/or water right claims for irrigation water supply, including ongoing or future water rights or water rights claims, conflicts, and litigation.

(5) Hydrologic water supply data including historical records of surface water availability (natural flows and storage), and ground water pumpages and other pertinent aquifer data on availability for withdrawal for water supply purposes.

(6) Quantities of surface water diverted and/or ground water withdrawn for water supply for each year of a recent five-year period. (Annual and monthly acre-feet and maximum and minimum monthly flows in ~~((cfs (surface) and gpm (ground water)))~~ cubic feet per second (cfs) for surface water and gallons per minute (gpm) for ground water.)

(7) Identify and assess the hydrological water flow system within the applicant's service area as it pertains to the quantities of water: (a) Diverted or withdrawn, (b) conveyed and distributed, (c) delivered and applied on farm, (d) which recharge the ground water and are returned to the agricultural water supply system, and (e) which comprise return flows for further irrigation downstream within the agricultural water supply system.

(8) Identify the quality of water supply and an assessment of the water quality impacts from use of the agricultural water supply system within the applicant's jurisdiction.

Present Facilities and Operations

(9) Identify and describe the present physical system utilized for the storage, diversion, pumping, conveyance, and distribution of the water supply.

(10) Assess and evaluate the existing water supply system including system efficiencies and energy use.

Water Needs and Adequacy of Water Supply

(11) Forecast future trends of land use.

(12) Estimate irrigation water requirements for the present and anticipated land use and cropping patterns.

(13) Relate the water needs to present water supply available.

Evaluation of Opportunities for Improvements in Water Supply and Distribution System Efficiencies

(14) Identify improvements in water supply and distribution system efficiencies (structural and nonstructural).

(15) Document a system improvements and rehabilitation plan, prepare preliminary designs and cost estimates, and estimate time frame for implementation. Identify location of improvements on layout map.

(16) Quantify the reasonable net water savings that would result from the efficiency improvements.

(17) Identify and describe opportunities for improving irrigation water management.

(18) Quantify any net energy savings that would result from efficiency improvements.

(19) Evaluate the socioeconomic impacts from the efficiency improvements and rehabilitation plan and changes or modifications of the systems operations and management policies. Discuss and quantify the benefits that accrue from the implementation of the improvements and rehabilitation plan.

(20) Assess and evaluate the impacts and benefits of transferring the net water savings to other water uses and resources.

(21) Identify associated wetlands and assess the impacts on them from implementation of the physical system's improvements and rehabilitation plan.

(22) Evaluate the impacts on water quality standards from implementation of the physical system's improvements and rehabilitation plan.

(23) Evaluate other environmental impacts from the efficiency improvements and rehabilitation plan. Develop a plan regarding compliance with the State Environmental Policy Act (SEPA) and the National Environmental Policy Act (NEPA) if applicable.

Financial

(24) Develop a financial program that addresses the implementation of the improvements and rehabilitation plan. The financial program should include, among other elements, a time schedule for completing the comprehensive water conservation plan, a summary of the applicant's current indebtedness and repayment plans, present and future operation, maintenance and energy costs (with and without implementation of the proposed project), and a schedule of assessments to cover planned indebtedness to complete implementation of the comprehensive water conservation plan.

AMENDATORY SECTION (Amending WSR 90-20-109, filed 10/2/90, effective 11/2/90)

WAC 173-170-050 Planning phase—Funding. (1) As available and awarded, financial assistance (~~((will be available))~~) for the planning phase will be provided in the form of:

(a) Grants in the amount of fifty percent of the total eligible phase costs; and

(b) Concurrent loans in the amount of forty percent of the total eligible phase costs.

(2) Loans shall be for a maximum five-year period, repayable at an annual percentage rate which equals the rate for one year federal treasury bills at the first auction following July 1 of the state fiscal year in which the loan agreement is entered into, discounted by four percent.

(3) Comprehensive water conservation plans must precede the implementation phase for projects approved after the effective date of these rules ~~(, with the following exceptions:~~

~~(a) Specific project work approved by the department prior to the effective date of these rules; or~~

~~(b) Project work that is currently in the implementation phase, when these rules become effective; or~~

~~(c) Specific project work that is approved by the department as part of a phased project begun prior to the effective date of these rules.~~

~~For these exceptions, work may proceed without an approved comprehensive water conservation plan, provided that the applicant undertakes and completes its plan covering such projects within two years from the effective date of these rules).~~

(4) Financial assistance for the planning phase, regardless of the form it takes, may not exceed two hundred thousand dollars per applicant. ~~((This ceiling shall not be subject to the review contained in WAC 173-170-080(5).))~~

AMENDATORY SECTION (Amending WSR 90-20-109, filed 10/2/90, effective 11/2/90)

WAC 173-170-070 Criteria for approval of requests for financial assistance—Implementation phase. (1) ~~((a))~~ The implementation phase project(s) must be included in a comprehensive water conservation plan approved by the department.

~~((b)) For projects that received approval from the department prior to the effective date of these rules, work may proceed provided the applicant undertakes and completes a comprehensive water conservation plan within two years of the effective date of these rules.)~~

(2) The agricultural water supply facilities must be designed to accomplish the purpose of the planned project. Accepted engineering design principles, criteria, and concepts will be used in the design of the facilities and approved by the department. Cost estimates for the proposed project must be prepared in detail. Plans and specifications must be approved by the department prior to advertising for construction bids.

(3) The State Environmental Policy Act (SEPA) requirements for any proposed actions must be met. The SEPA rules, chapter 197-11 WAC, will be followed to determine the environmental impacts of the proposed project. A copy of the ~~((environmental assessment and the final impact statement, if appropriate,))~~ final SEPA document and any needed supporting environmental analysis must be submitted to the department. ~~((If no impact statement has been prepared, a copy of the declaration of nonsignificance in accordance with chapter 197-11 WAC must be submitted to the department.))~~

(4) Documentation showing all lands and land rights required for satisfactory construction, operation, and maintenance of the project have been or can be acquired.

(5) The project will not be in conflict with any applicable federal, state, and local laws, orders, regulations, rules, licenses, and permits.

AMENDATORY SECTION (Amending WSR 90-20-109, filed 10/2/90, effective 11/2/90)

WAC 173-170-080 Implementation phase—Funding. (1) Implementation phase projects will be categorized by the department as Class A projects or Class B projects in accordance with the definitions for those terms under WAC 173-170-020 (5) and (6).

(2) ~~((For projects that received approval from the department prior to the effective date of these rules and where the applicant is working on the comprehensive water conservation plan, financial assistance will be available as follows:~~

~~(a) For Class A projects, grants in the amount of twenty-five percent of the total eligible project costs; and concurrent loans in the amount of sixty-five percent of the total eligible project costs;~~

~~(b) For Class B projects, grants in the amount of fifteen percent of the total eligible project costs; and concurrent loans in the amount of seventy-five percent of the total eligible project costs.~~

~~((3)) As funds are available and awarded, financial assistance for Class A projects subject to a completed comprehensive water conservation plan ~~((will be available))~~ shall be provided in the form of:~~

~~(a) Grants in the amount of thirty percent of the total eligible project costs; and~~

~~(b) Concurrent loans in the amount of sixty percent of the total eligible project costs.~~

~~((4)) (c) The department may issue an additional portion of the funding in grants for projects with significant public benefit.~~

~~((3) As funds are available and awarded, financial assistance for Class B projects subject to a completed comprehensive water conservation plan will be ~~((available))~~ provided in the form of:~~

~~(a) Grants in the amount of fifteen percent of the total eligible project costs; and~~

~~(b) Concurrent loans in the amount of seventy-five percent of the total eligible project costs.~~

~~((5)) (4) Financial assistance for implementation phase projects shall be limited to a total of ~~((one))~~ two million five hundred thousand dollars per applicant regardless of the form ~~((such financial assistance takes, with the following possibility of increase. This cap shall be subject to review on July 1, 1994. In the event that demand on the Referendum 38 fund is significantly less than anticipated this cap may be adjusted upwards to provide more funding possibilities to applicants already at the upper)), except that loans once fully repaid shall not be measured against the limit.~~~~

~~((6)) (5) Loans awarded shall be available on the following repayment and interest schedule:~~

~~(a) Loans for up to a maximum five-year period, repayable with interest at an annual percentage rate which equals~~

the rate for one year federal treasury bills at the first auction following ~~((July 1))~~ the beginning of the state fiscal year (July 1) in which the loan agreement is entered into, discounted by four percent.

(b) Loans for five years through a maximum ten-year period, repayable with interest at an annual percentage rate which equals the rate for one year federal treasury bills at the first auction following ~~((July 1))~~ the beginning of the state fiscal year (July 1) in which the loan agreement is entered into, discounted by two percent.

(c) Loans for ten years through a maximum fifteen-year period, repayable with interest at an annual percentage rate which equals the rate for one year federal treasury bills at the first auction following ~~((July 1))~~ the beginning of the state fiscal year (July 1) in which the loan agreement is entered into, discounted by one percent.

(d) Loans for fifteen years through a maximum twenty-five-year period, repayable with interest at an annual percentage rate which equals the rate for one year federal treasury bills at the first auction following ~~((July 1))~~ the beginning of the state fiscal year (July 1) in which the loan agreement is entered into.

AMENDATORY SECTION (Amending WSR 90-20-109, filed 10/2/90, effective 11/2/90)

WAC 173-170-090 Emergency projects—Applications—Designation—Funding. (1) Applications for emergency projects may be accepted at any time throughout the year. The application shall indicate:

- (a) The nature of the occurrence that caused the need for repairs;
- (b) The location of needed repairs;
- (c) A project description of the repairs; and
- (d) A summary of how the repairs fit within the long-range improvements addressed in the comprehensive water conservation plan.

If the comprehensive water conservation plan has not been completed, a summary of how the repairs fit within proposed long-range improvements.

~~((2))~~ ~~((Upon receipt of the application the department will designate the emergency project as a Class A or Class B project.))~~ A decision on whether to fund the emergency project will be made within fifteen days of receipt of the application. The department may agree to the applicant incurring costs prior to an agreement being signed and shall so indicate by letter to the applicant.

(3) Financial assistance for emergency projects shall ~~((take the following form:))~~

~~((a))~~ ~~For Class A projects, grants in the amount of thirty percent of the total eligible project costs; and concurrent loans in the amount of sixty percent of the total eligible project costs; or~~

~~((b))~~ ~~For Class B projects, grants in the amount of fifteen percent of the total eligible project costs; and concurrent loans in the amount of seventy-five))~~ be in the form of loans for up to ninety percent of the total eligible project costs.

AMENDATORY SECTION (Amending WSR 90-20-109, filed 10/2/90, effective 11/2/90)

WAC 173-170-100 ((Small parcels)) Yakima River Basin Water Enhancement Project—Funding. (1) ~~((A small parcel element is that part of an implementation project that provides irrigation water for noncommercial use to small parcels, as defined in WAC 173-170-020(19).))~~

~~((2))~~ ~~Financial assistance for the small parcel element shall be available in the form of:~~

~~((a))~~ ~~Grants in the amount of fifteen percent of the small parcel element's total eligible costs; and~~

~~((b))~~ ~~Loans in the amount of fifty percent when unaccompanied by a grant or thirty-five percent in combination with a grant of the small parcel element's total eligible costs.~~

~~((3))~~ ~~Financial assistance, whether grant, loan, or a combination grant and loan, may not exceed one hundred thousand dollars for any one applicant.~~

~~((4))~~ ~~Total funds available statewide for small parcel elements is one million dollars. Any moneys unspent out of that fund on July 1, 1995, shall be transferred to the general implementation fund and shall no longer be available for small parcel elements.))~~ The Yakima River Basin Water Enhancement Project (YRBWEP) may be provided state funding by agreement with the department, to the extent that moneys are available.

(2) Funds provided under this section for YRBWEP shall be exempt from WAC 173-170-080.



WSR 03-06-059

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Rehabilitative Services Administration)

[Filed February 28, 2003, 4:54 p.m.]

Date of Adoption: February 28, 2003.

Purpose: The department is amending WAC 388-805-005, 388-805-030, 388-805-065, 388-805-145, 388-805-205, 388-805-300, 388-805-710, 388-805-720, 388-805-730, 388-805-740, and 388-805-750, and implementing new WAC 388-805-350 and 388-805-040, regulating opiate substitution treatment programs. Emergency WAC adoptions were submitted to the Washington State Code Reviser's Office on March 8, 2002, July 5, 2002, and November 1, 2002, that modified Washington Administrative Codes to begin recognizing the Center for Substance Abuse Treatment (CSAT), Substance Abuse and Mental Health Services Administration (SAMHSA) certification standards and implement the requirements of SSB 5417, an act relating to opiate substitution treatment programs that amended chapter 70.96A RCW effective July 22, 2001. This emergency rule adoption will extend the first three emergency rules for another one hundred twenty days. Preproposal statement of inquiries were filed as WSR 02-10-112, and the department is actively undertaking appropriate procedures to adopt the rules as permanent rules.

Citation of Existing Rules Affected by this Order: Amending WAC 388-805-005, 388-805-030, 388-805-065, 388-805-145, 388-805-205, 388-805-300, 388-805-710, 388-805-720, 388-805-730, 388-805-740, and 388-805-750.

Statutory Authority for Adoption: Chapter 70.96A RCW, and 42 Code of Federal Regulations (C.F.R.), Part 8.

Other Authority: SSB 5417 (chapter 242, Laws of 2001).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The CSAT, SAMHSA adopted 42 C.F.R., Part 8, Certification of Opioid Treatment Programs January 17, 2001, effective May 18, 2001, regulating opiate substitution treatment programs. SSB 5417, an act relating to opiate substitution treatment programs amended chapter 70.96A RCW effective July 22, 2001. Emergency rules are necessary to permit the department to certify eligible opioid treatment programs while permanent rules are being developed.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 11, 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 2, Amended 11, Repealed 0.

Effective Date of Rule: Immediately.

February 22, 2003

Bonita H. Jacques

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

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-005 What definitions are important throughout this chapter? "Added service" means the adding of certification for chemical dependency levels of care to an existing certified agency at an approved location.

"Addiction counseling competencies" means the knowledge, skills, and attitudes of chemical dependency counselor professional practice as described in Technical Assistance Publication No. 21, Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration, U.S. Department of Health and Human Services 1998.

"Administrator" means the person designated responsible for the operation of the certified treatment service.

"Adult" means a person eighteen years of age or older.

"Alcoholic" means a person who has the disease of alcoholism.

"Alcoholism" means a primary, chronic disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. The disease is often progressive and fatal. It is characterized by impaired control over drinking, preoccupation with the drug alcohol, use of alcohol despite adverse consequences, and distortions in thinking, most notably denial. Each of these symptoms may be continuous or periodic.

"Approved supervisor" means a person who meets the education and experience requirements described in WAC 246-811-030 and 246-811-045 through 246-811-049 and who is available to the person being supervised.

"Area" means the county in which an opiate substitution treatment program applicant proposes to locate a certified program, and counties adjacent or near to the county in which the program is proposed to be located.

"Authenticated" means written, permanent verification of an entry in a patient treatment record by an individual, by means of an original signature including first initial, last name, and professional designation or job title, or initials of the name if the file includes an authentication record, and the date of the entry. If patient records are maintained electronically, unique electronic passwords, biophysical or passcard equipment are acceptable methods of authentication.

"Authentication record" means a document that is part of a patient's treatment record, with legible identification of

all persons initialing entries in the treatment record, and includes:

- (1) Full printed name;
- (2) Signature including the first initial and last name; and
- (3) Initials and abbreviations indicating professional designation or job title.

"Bloodborne pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans. The pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV).

"Branch site" means a physically separate certified site where qualified staff provides a certified treatment service, governed by a parent organization. The branch site is an extension of a certified provider's services to one or more sites.

"CSAT" means the Federal Center For Substance Abuse Treatment, a substance abuse service center of the Substance Abuse and Mental Health Services Administration.

"Certified treatment service" means a discrete program of chemical dependency treatment offered by a service provider who has a certificate of approval from the department of social and health services, as evidence the provider meets the standards of chapter 388-805 WAC.

"Change in ownership" means one of the following conditions:

- (1) When the ownership of a certified chemical dependency treatment provider changes from one distinct legal entity (owner) to a distinct other;
- (2) When the type of business changes from one type to another; or
- (3) When the current ownership takes on a new owner of five percent or more of the organizational assets.

"Chemical dependency" means a person's alcoholism or drug addiction or both.

"Chemical dependency counseling" means face-to-face individual or group contact using therapeutic techniques that are:

- (1) Led by a chemical dependency professional (CDP), or CDP trainee under supervision of a CDP;
- (2) Directed toward patients and others who are harmfully affected by the use of mood-altering chemicals or are chemically dependent; and
- (3) Directed toward a goal of abstinence for chemically dependent persons.

"Chemical dependency professional" means a person certified as a chemical dependency professional by the Washington state department of health under chapter 18.205 RCW.

"Child" means a person less than eighteen years of age, also known as adolescent, juvenile, or minor.

"County coordinator" means the person designated by the chief executive officer of a county to carry out administrative and oversight responsibilities of the county chemical dependency program.

"Criminal background check" means a search by the Washington state patrol for any record of convictions or civil adjudication related to crimes against children or other per-

sons, including developmentally disabled and vulnerable adults, per RCW 43.43.830 through 43.43.842 relating to the Washington state patrol.

"Danger to self or others," for purposes of WAC 388-805-520, means a youth who resides in a chemical dependency treatment agency and creates a risk of serious harm to the health, safety, or welfare to self or others. Behaviors considered a danger to self or others include:

- (1) Suicide threat or attempt;
- (2) Assault or threat of assault; or
- (3) Attempt to run from treatment, potentially resulting in a dangerous or life-threatening situation.

"Department" means the Washington state department of social and health services.

"Determination of need" means a process used by the department for opiate substitution treatment program certification applications as described in WAC 388-805-040.

"Detoxification" or **"detox"** means care and treatment of a person while the person recovers from the transitory effects of acute or chronic intoxication or withdrawal from alcohol or other drugs.

"Disability, a person with" means a person whom:

- (1) Has a physical or mental impairment that substantially limits one or more major life activities of the person;
- (2) Has a record of such an impairment; or
- (3) Is regarded as having such an impairment.

"Discrete treatment service" means a chemical dependency treatment service that:

- (1) Provides distinct chemical dependency supervision and treatment separate from any other services provided within the facility;
- (2) Provides a separate treatment area for ensuring confidentiality of chemical dependency treatment services; and
- (3) Has separate accounting records and documents identifying the provider's funding sources and expenditures of all funds received for the provision of chemical dependency treatment services.

"Domestic violence" means:

- (1) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members;
- (2) Sexual assault of one family or household member by another;
- (3) Stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member; or
- (4) As defined in RCW 10.99.020, RCW 26.50.010, or other Washington state statutes.

"Drug addiction" means a primary, chronic disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. The disease is often progressive and fatal. Drug addiction is characterized by impaired control over use of drugs, preoccupation with drugs, use of a drug despite adverse consequences, and distortions in thinking, most notably denial. Each of these symptoms may be continuous or periodic.

"Essential requirement" means a critical element of chemical dependency treatment services that must be present in order to provide effective treatment.

"First steps" means a program available across the state for low-income pregnant women and their infants. First steps provides maternity care for pregnant and postpartum women and health care for infants and young children.

"Governing body" means the legal entity responsible for the operation of the chemical dependency treatment service.

"HIV/AIDS brief risk intervention (BRI)" means an individual face-to-face interview with a client or patient, to help that person assess personal risk for HIV/AIDS infection and discuss methods to reduce infection transmission.

"HIV/AIDS education" means education, in addition to the brief risk intervention, designed to provide a person with information regarding HIV/AIDS risk factors, HIV antibody testing, HIV infection prevention techniques, the impact of alcohol and other drug use on risks and the disease process, and trends in the spread of the disease.

"Medical practitioner" means a physician, advanced registered nurse practitioner (ARNP), or certified physician's assistant. ARNPs and midwives with prescriptive authority may perform practitioner functions related only to indicated specialty services.

"Misuse" means use of alcohol or other drugs by a person in:

- (1) Violation of any law; or
- (2) Breach of agency policies relating to the drug-free work place.

"Off-site treatment" means provision of chemical dependency treatment by a certified provider at a location where treatment is not the primary purpose of the site; such as in schools, hospitals, or correctional facilities.

"Opiate substitution treatment ((agency) program)" means an organization that administers or dispenses an approved drug as specified in 212 CFR Part 291 for treatment or detoxification of opiate substitution. The agency is:

- (1) ~~((Approved by the Federal Food and Drug Administration))~~ Certified as an opioid treatment program by the Federal Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration;
- (2) ~~((Registered with))~~ Licensed by the Federal Drug Enforcement Administration;
- (3) Registered ~~((with))~~ by the state board of pharmacy;
- (4) ~~((Licensed by the county in which it operates))~~ Accredited by an opioid treatment program accreditation body approved by the Federal Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration; and
- (5) Certified as an opiate substitution treatment ~~((agency))~~ program by the department.

"Outcomes evaluation" means a system for determining the effectiveness and efficiency of results achieved by patients during or following service delivery, and patient satisfaction with those results for the purpose of program improvement.

"Patient" is a person receiving chemical dependency treatment services from a certified program.

"Patient contact" means time spent with a client or patient to do assessments, individual or group counseling, or education.

"Patient placement criteria (PPC)" means admission, continued service, and discharge criteria found in the Patient Placement Criteria for the Treatment of Substance-Related Disorders as published and revised by the American Society of Addiction Medicine (ASAM).

"Probation assessment officer (PAO)" means a person employed at a certified district or municipal court probation assessment service that meets the PAO requirements of WAC 388-805-220.

"Probation assessment service" means a certified assessment service offered by a misdemeanor probation department or unit within a county or municipality.

"Progress notes" are a permanent record of ongoing assessments of a patient's participation in and response to treatment, and progress in recovery.

"Qualified personnel" means trained, qualified staff, consultants, trainees, and volunteers who meet appropriate legal, licensing, certification, and registration requirements.

"Registered counselor" means a person registered, or certified by the state department of health as required by chapter 18.19 RCW.

"Relocation" means change in location from one office space to a new office space, or moving from one office building to another.

"Remodeling" means expansion of existing office space to additional office space at the same address, or remodeling of interior walls and space within existing office space.

"Restraint," for purposes of WAC 388-805-520, means the use of methods, by a trained staff person, to prevent or limit free body movement in case of out-of-control behavior.

"Restraint" includes:

- (1) Containment or seclusion in an unlocked quiet room;
- (2) Physical restraint, meaning a person physically holds or restricts another person in a safe manner for a short time in an immediate crisis; or
- (3) Use of a safe and humane apparatus, which the person cannot release by oneself.

"SAMHSA" means the Federal Substance Abuse and Mental Health Services Administration.

"Service provider" or **"provider"** means a legally operated entity certified by the department to provide chemical dependency services. The components of a service provider are:

- (1) Legal entity/owner;
- (2) Facility; and
- (3) Staff and services.

"Sexual abuse" means sexual assault, incest, or sexual exploitation.

"Sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of employment or treatment; or

(2) Such conduct interferes with work performance or creates an intimidating, hostile, or offensive work or treatment environment.

"**Substance abuse**" means a recurring pattern of alcohol or other drug use that substantially impairs a person's functioning in one or more important life areas, such as familial, vocational, psychological, physical, or social.

"**Summary suspension**" means an immediate suspension of certification, per RCW 34.05.422(4), by the department pending administrative proceedings for suspension, revocation, or other actions deemed necessary by the department.

"**Supervision**" means:

(1) Regular monitoring of the administrative, clinical, or clerical work performance of a staff member, trainee, student, volunteer, or employee on contract by a person with the authority to give directions and require change; and

(2) "**Direct supervision**" means the supervisor is on the premises and available for immediate consultation.

"**Suspend**" means termination of the department's certification of a provider's treatment services for a specified period or until specific conditions have been met and the department notifies the provider of reinstatement.

"**TARGET**" means the treatment and assessment report generation tool.

"**Treatment services**" means the broad range of emergency, detoxification, residential, and outpatient services and care. Treatment services include diagnostic evaluation, chemical dependency education, individual and group counseling, medical, psychiatric, psychological, and social services, vocational rehabilitation and career counseling that may be extended to alcoholics and other drug addicts and their families, persons incapacitated by alcohol or other drugs, and intoxicated persons.

"**Urinalysis**" means analysis of a patient's urine sample for the presence of alcohol or controlled substances by a licensed laboratory or a provider who is exempted from licensure by the department of health:

(1) "**Negative urine**" is a urine sample in which the lab does not detect specific levels of alcohol or other specified drugs; and

(2) "**Positive urine**" is a urine sample in which the lab confirms specific levels of alcohol or other specified drugs.

"**Vulnerable adult**" means a person who lacks the functional, mental, or physical ability to care for oneself.

"**Young adult**" means an adult who is eighteen, nineteen, or twenty years old.

"**Youth**" means a person seventeen years of age or younger.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-030 ((How do I apply)) What are the requirements for opiate substitution treatment ((service)) program certification? Certification as an opiate substitution treatment program is contingent on the concurrent approval by applicable state regulatory authorities; certifica-

tion as an opiate treatment program by the Federal CSAT SAMHSA; accreditation by an opiate treatment program accreditation body approved by the Federal CSAT SAMHSA; and licensure by the Federal Drug Enforcement Administration. In addition to WAC 388-805-015 or 388-805-020 requirements, a potential opiate substitution treatment ((service)) program provider must submit to the department:

(1) ~~((Evidence of licensure from the county served, or evidence the county has authorized a specific certified agency to provide opiate substitution treatment, per RCW 70.96A.400 through 70.96A.420.~~

~~((2))~~ A copy of the application for a registration certificate from the Washington state board of pharmacy.

~~((3))~~ (2) A copy of the application for licensure to the Federal Drug Enforcement Administration.

~~((4))~~ (3) A copy of the application for certification to the Federal ~~((Food and Drug Administration))~~ CSAT SAMHSA.

(4) A copy of the application for accreditation by an accreditation body approved as an opiate treatment program accreditation body by the Federal CSAT SAMHSA.

(5) Policies and procedures identified under WAC 388-805-700 through 388-805-750.

(6) ~~((Certification for opiate substitution treatment is contingent on the concurrent approval by the applicable county, state, and federal regulatory authorities)) Evidence that the program will be sited in accordance with the appropriate county or city land use ordinances.~~

(7) Documentation that transportation systems will provide reasonable opportunities to persons in need of treatment to access the services of the program.

(8) When applicable, a copy of national accreditation, state certification/accreditation, and survey reports from national or state certification or accreditation organizations over the past six years when operating an opiate substitution treatment program in another state.

(9) At least three letters of support from other providers within the existing health care system in the area the applicant proposes to establish a new opiate substitution treatment program to demonstrate an appropriate relationship to the service area's existing health care system.

(10) A declaration to limit the number of individual program participants to three hundred fifty as specified in RCW 70.96A.410 (1)(e).

NEW SECTION

WAC 388-805-035 What are the responsibilities for the department when an applicant applies for approval? When making a decision on an application for certification of a program, the department must:

(1) Consult with the county legislative authorities in the area in which an applicant proposes to locate a program and the city legislative authority in any city in which an applicant proposes to locate a program. The department will request county and city legislative authorities to notify the department of any applicable requirements or other issues that the department should consider in order to fulfill the require-

ments of WAC 388-805-030 (6) and (7), or 388-805-040 (1) through (5);

(2) Not discriminate in its certification decision on the basis of the corporate structure of the applicant;

(3) Consider the size of the population in need of treatment in the area in which the program would be located and certify only applicants whose programs meet the necessary treatment needs of the population;

(4) Determine there is a need in the community for opiate substitution treatment and not certify more program slots than justified by the need in that community as described in WAC 388-805-040;

(5) Consider whether the applicant has the capability, or has in the past demonstrated the capability to provide appropriate treatment services to assist persons in meeting legislative goals of abstinence from opiates and opiate substitutes, obtaining mental health treatment, improving economic independence, and reducing adverse consequences associated with illegal use of controlled substances;

(6) Hold at least one public hearing in the county in which the facility is proposed to be located and one hearing in the area or adjacent county with the largest population in which the facility is proposed to be located. The hearing must be held at a time and location most likely to permit the largest number of interested persons to attend and present testimony. The department must notify all appropriate media outlets of the time, date, and location of the hearing at least three weeks in advance of the hearing.

NEW SECTION

WAC 388-805-040 How does the department determine there is a need in the community for opiate substitution treatment? The department will determine whether or not there is a demonstrated need in the community for opiate substitution treatment from information provided to the department by the applicant and through department consultation with city and county legislative authorities, and other appropriate community resources. A "determination of need" for a proposed program will include a review and evaluation of the following criteria:

(1) For the number of potential clients in an area, the department will consider the size of the population in need of treatment in the area in which the program would be located using adult population statistics from the most recent area population trend reports. The department will use the established ratio of .7 percent of the adult population as an estimate for the number of potential clients in need of opiate substitution treatment program services.

(2) For the number of anticipated program slots in an area, the department will multiply the sum of the established ratio of .7 percent of the adult population in subsection (1) of this section by thirty-five percent to determine an estimate of the anticipated need for the number of opiate substitution treatment program slots in the area in which the program would be located.

(3) Demographic and trend data from the area in which the program would be located including the most recent department county trend data, TARGET admission data for

opiate substitution treatment from the area, hospital and emergency department admission data from the area, needle exchange data from the area, and other relevant reports and data from city and county health organizations demonstrating the need for opiate substitution treatment program services.

(4) Availability of other opiate substitution treatment programs near the area of the applicant's proposed program. The department will determine the number of patients, capacity, and accessibility of existing opiate substitution treatment programs near the area of the applicant's proposed program and whether existing programs have the capacity to assume additional patients for treatment services.

(5) Whether the population served or to be served has need for the proposed program and whether other existing services and facilities of the type proposed are available or accessible to meet that need. The assessment will include, but not limited to, consideration of the following:

(a) The extent to which the proposed program meets the need of the population presently served;

(b) The extent to which the underserved need will be met adequately by the proposed program; and

(c) The impact of the service on the ability of low-income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups to obtain needed health care.

(6) The department will review agency policies and procedures that describe the cost of services to clients, sliding fee scales, and charity care policies, procedures, and goals.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-065 How does the department determine disqualification or denial of an application? The department must consider the ability of each person named in the application to operate in accord with this chapter before the department grants or renews certification of a chemical dependency service.

(1) The department must deny an applicant's certification when any of the following conditions occurred and was not satisfactorily resolved, or when any owner or administrator:

(a) Had a license or certification for a chemical dependency treatment service or health care agency denied, revoked, or suspended;

(b) Was convicted of child abuse or adjudicated as a perpetrator of substantiated child abuse;

(c) Obtained or attempted to obtain a health provider license, certification, or registration by fraudulent means or misrepresentation;

(d) Committed, permitted, aided, or abetted the commission of an illegal act or unprofessional conduct as defined under RCW 18.130.180;

(e) Demonstrated cruelty, abuse, negligence, misconduct, or indifference to the welfare of a patient or displayed acts of discrimination;

(f) Misappropriated patient property or resources;

(g) Failed to meet financial obligations or contracted service commitments that affect patient care;

(h) Has a history of noncompliance with state or federal regulations in an agency with which the applicant has been affiliated;

(i) Knowingly, or with reason to know, made a false statement of fact or failed to submit necessary information in:

(i) The application or materials attached; and

(ii) Any matter under department investigation.

(j) Refused to allow the department access to records, files, books, or portions of the premises relating to operation of the chemical dependency service;

(k) Willfully interfered with the preservation of material information or attempted to impede the work of an authorized department representative;

(l) Is in violation of any provision of chapter 70.96A RCW; or

(m) Does not meet criminal background check requirements.

(2) The department may deny certification when an applicant:

(a) Fails to provide satisfactory application materials; or

(b) Advertises itself as certified when certification has not been granted, or has been revoked or canceled.

(3) The department may deny an application for certification of an opiate substitution treatment program when:

(a) There is not a demonstrated need in the community for opiate substitution treatment and/or there is not a demonstrated need for more program slots justified by the need in that community;

(b) There is sufficient availability, accessibility, and capacity of other certified programs near the area in which the applicant proposes to locate the program;

(c) The applicant has not demonstrated in the past, the capability to provide the appropriate services to assist the persons who will utilize the program in meeting goals established by the legislature, including:

(i) Abstinence from opiates and opiate substitutes,

(ii) Obtaining mental health treatment,

(iii) Improving economic independence, and

(iv) Reducing adverse consequences associated with illegal use of controlled substances.

(4) The applicant may appeal department decisions in accord with chapter 34.05 RCW, the Washington Administrative Procedure Act and chapter 388-02 WAC.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-145 What are the key responsibilities required of an agency administrator? (1) The administrator is responsible for the day-to-day operation of the certified treatment service, including:

(a) All administrative matters;

(b) Patient care services; and

(c) Meeting all applicable rules and ethical standards.

(2) When the administrator is not on duty or on call, a staff person must be delegated the authority and responsibility to act in the administrator's behalf.

(3) The administrator must ensure administrative, personnel, and clinical policy and procedure manuals:

(a) Are developed and adhered to; and

(b) Are reviewed and revised as necessary, and at least annually.

(4) The administrator must employ sufficient qualified personnel to provide adequate chemical dependency treatment, facility security, patient safety and other special needs of patients.

(5) The administrator must ensure all persons providing counseling services are registered, certified or licensed by the department of health.

(6) The administrator must ensure full-time chemical dependency professionals (CDPs) or CDP trainees do not exceed one hundred twenty hours of patient contact per month.

(7) The administrator must assign the responsibilities for a clinical supervisor to a least one person within the organization.

(8) The administrator of a certified opiate substitution treatment program must ensure that the number of patients will not exceed three hundred and fifty unless authorized by the county in which the program is located.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-205 What are agency personnel file requirements? (1) The administrator must ensure that there is a current personnel file for each employee, trainee, student, and volunteer, and for each contract staff person who provides or supervises patient care.

(2) The administrator must designate a person to be responsible for management of personnel files.

(3) Each person's file must contain:

(a) A copy of the results of a tuberculin skin test or evidence the person has completed a course of treatment approved by a physician or local health officer if the results are positive;

(b) Documentation of training on bloodborne pathogens, including HIV/AIDS and hepatitis B for all employees, volunteers, students, and treatment consultants on contract;

(i) At the time of staff's initial assignment to tasks where occupational exposure may take place;

(ii) Annually thereafter for bloodborne pathogens;

(c) A signed and dated commitment to maintain patient confidentiality in accordance with state and federal confidentiality requirements; and

(d) A record of an orientation to the agency as described in WAC 388-805-200(5).

(4) For residential facilities, documentation of current cardiopulmonary resuscitation (CPR) and first aid training for at least one person on each shift.

(5) Documentation of health department training and approval for any staff administering or reading a TB test.

(6) Employees who are patients or have been patients of the agency must have personnel records:

(a) Separate from clinical records; and

(b) Have no indication of current or previous patient status.

(7) In addition, each patient care staff member's personnel file must contain:

(a) Verification of qualifications for their assigned position including:

(i) For a chemical dependency professional (CDP): A copy of the person's valid CDP certification issued by the department of health (DOH);

(ii) For approved supervisors: Documentation to substantiate the person meets the qualifications of an approved supervisor as defined in WAC 246-811-010.

(iii) For ~~(other persons providing counseling, a copy of a valid registration, certification, or license issued by the DOH)~~ each person engaged in the treatment of chemical dependency, including counselors, physicians, nurses, and other registered, certified, or licensed health care professionals, evidence they comply with the credentialing requirements of their respective professions.

(iv) For probation assessment officers (PAO): Documentation that the person has met the education and experience requirements described in WAC 388-805-220;

(v) For probation assessment officer trainees:

(A) Documentation that the person meets the qualification requirements described in WAC 388-805-225; and

(B) Documentation of the PAO trainee's supervised experience as described in WAC 388-805-230 including an individual education and experience plan and documentation of progress toward completing the plan.

(vi) For information school instructors:

(A) A copy of a certificate of completion of an alcohol and other drug information school instructor's training course approved by the department; and

(B) Documentation of continuing education as specified in WAC 388-805-250.

(b) A copy of a current job description, signed and dated by the employee and supervisor which includes:

(i) Job title;

(ii) Minimum qualifications for the position;

(iii) Summary of duties and responsibilities;

(iv) For contract staff, formal agreements or personnel contracts, which describe the nature and extent of patient care services, may be substituted for job descriptions.

(c) A written performance evaluation for each year of employment:

(i) Conducted by the immediate supervisor of each staff member; and

(ii) Signed and dated by the employee and supervisor.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-300 What must be included in the agency clinical manual? Each chemical dependency service provider must have and adhere to a clinical manual containing patient care policies and procedures, including:

(1) How the provider meets WAC 388-805-305 through 388-805-350 requirements.

(2) How the provider will meet applicable certified service requirements of WAC 388-805-400 through 388-805-840, including a description of each service offered, detailing:

(a) The number of hours of treatment and education for each certified service; and

(b) Allowance of up to twenty percent of education time to consist of film or video presentations.

(3) Identification of resources and referral options so staff can make referrals required by law and as indicated by patient needs.

(4) Assurance that there is an identified clinical supervisor who:

(a) Is a chemical dependency professional (CDP);

(b) Reviews a sample of patient records of each CDP quarterly; and

(c) Ensures implementation of assessment, treatment, continuing care, transfer and discharge plans in accord with WAC 388-805-315.

(5) Patient admission and discharge criteria using PPC;

(6) Policies and procedures to implement the following requirements:

(a) The administrator must not admit or retain a person unless the person's treatment needs can be met;

(b) A chemical dependency professional (CDP), or a CDP trainee under supervision of a CDP, must assess and refer each patient to the appropriate treatment service; and

(c) A person needing detoxification must immediately be referred to a detoxification provider, unless the person needs acute care in a hospital.

((6)) (7) Additional requirements for opiate substitution treatment programs:

(a) A person under eighteen years of age needing opiate substitution treatment is required to have had two documented attempts at short-term detoxification or drug-free treatment within a twelve-month period. A waiting period of no less than seven days is required between the first and second short-term detoxification treatment.

(b) No person under eighteen years of age may be admitted to maintenance treatment unless a parent, legal guardian, or responsible adult designated by the relevant state authority consents in writing to treatment.

(c) Documentation in each patient's record that the service provider made a good faith effort to review if the patient is enrolled in any other opiate substitution treatment service.

(d) When the medical director or program physician of an opiate substitution treatment program provider in which the patient is enrolled determines that exceptional circumstances exist, the patient may be granted permission to seek concurrent treatment at another opiate substitution treatment program provider. The justification for finding exceptional circumstances for double enrollment must be documented in the patient's record at both treatment program providers.

(8) Tuberculosis screening for prevention and control of TB in all detox, residential, and outpatient programs, including:

(a) Obtaining a history of preventive or curative therapy;

(b) Screening and related procedures for coordinating with the local health department; and

(c) Implementing TB control as provided by the department of health TB control program.

((7)) (9) HIV/AIDS information, brief risk intervention, and referral.

((8)) (10) Limitation of group counseling sessions to twelve or fewer patients.

~~((9))~~ (11) Counseling sessions with nine to twelve youths to include a second adult staff member.

~~((10))~~ (12) Provision of education to each patient on:

- (a) Alcohol, other drugs, and chemical dependency;
- (b) Relapse prevention; and
- (c) HIV/AIDS, hepatitis, and TB.

~~((11))~~ (13) Provision of education or information to each patient on:

(a) The impact of chemical use during pregnancy, risks to the fetus, and the importance of informing medical practitioners of chemical use during pregnancy;

- (b) Emotional, physical, and sexual abuse; and
- (c) Nicotine addiction.

~~((12))~~ (14) An outline of each lecture and education session included in the service, sufficient in detail for another trained staff person to deliver the session in the absence of the regular instructor.

~~((13))~~ (15) Assigning of work to a patient by a CDP when the assignment:

- (a) Is part of the treatment program; and
- (b) Has therapeutic value.

~~((14))~~ (16) Use of self-help groups.

~~((15))~~ (17) Patient rules and responsibilities, including disciplinary sanctions for noncomplying patients.

~~((16))~~ (18) If youth are admitted, a policy and procedure for assessing the need for referral to child welfare services.

~~((17))~~ (19) Implementation of the deferred prosecution program.

~~((18))~~ (20) Policy and procedures for reporting status of persons convicted under chapter 46.61 RCW to the department of licensing.

~~((19))~~ (21) Nonresidential providers must have policies and procedures on:

- (a) Medical emergencies;
- (b) Suicidal and mentally ill patients;
- (c) Medical oversight, including provision of a physical examination by a medical practitioner, on a person who:

(i) Is at risk of withdrawal from barbiturates or benzodiazepines; or

(ii) Used intravenous drugs in the thirty days before admission;

(d) Laboratory tests;

(e) Services and resources for pregnant women:

(i) A pregnant woman who is not seen by a private physician must be referred to a physician or the local first steps maternity care program for determination of prenatal care needs; and

(ii) Services include discussion of pregnancy specific issues and resources.

(f) If using medication services:

(i) A medical practitioner must evaluate each patient who is taking disulfiram at least once every ninety days;

(ii) Patient medications are stored, disbursed, and recorded in accord with chapter 246-326 WAC; and

(iii) Only a licensed nurse or medical practitioner may administer medication.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-710 What are the requirements for opiate substitution medical management? (1) A program physician must provide oversight for determination of opiate physical addiction for each patient before admission unless the patient is exempted by the Federal (~~Food and Drug Administration~~) CSAT, SAMHSA, and:

(a) Be available for consultation when an opiate physical addiction determination is conducted by anyone other than the program physician; and

(b) Conduct the opiate physical addiction determination for all youth patients.

(2) A physical examination must be conducted on each patient:

(a) By a program physician or other medical practitioner; and

(b) Within ~~((twenty-one))~~ fourteen days of admission.

(3) Following the patient's initial dose of opiate substitution treatment, the physician must establish adequacy of dose, considering:

(a) Signs and symptoms of withdrawal;

(b) Patient comfort; and

(c) Side effects from over-medication.

(4) At the appropriate time, a program physician must approve an individual detoxification schedule for each patient being detoxified.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-720 What are the requirements for urinalysis in opiate substitution treatment? (1) The provider must obtain a urine sample from each patient for urinalysis:

(a) At least ~~((once each month))~~ eight times per year; and

(b) Randomly, without notice to the patient.

(2) Staff must observe the collection of each urine sample and use proper chain of custody techniques when handling each sample;

(3) When a patient refuses to provide a urine sample or initial the log of sample numbers, staff must consider the urine positive; and

(4) Staff must document a positive urine and discuss the findings with the patient ~~((in a))~~ at the next scheduled counseling session ~~((within seven days of receiving the results of the test)).~~

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-730 What are the requirements for opiate substitution treatment dispensaries? (1) Each opiate substitution treatment provider must comply with applicable portions of 21 CFR, Part 1301 requirements, as now or later amended.

(2) The administrator must ensure written policies and procedures to verify the identity of patients.

(3) Dispensary staff must maintain a file with a photograph of each patient. Dispensary staff must ensure pictures are updated when:

(a) The patient's physical appearance changes significantly; or

(b) Every two years, whichever comes first.

(4) In addition to notifying the ~~((Food and Drug))~~ Federal CSAT, SAMHSA and the Federal Drug Enforcement Administration, the administrator must immediately notify the department and the state board of pharmacy of any theft or significant loss of a controlled substance.

(5) The administrator must have a written diversion control plan that contains specific measures to reduce the possibility of diversion of controlled substances from legitimate treatment use and that assigns specific responsibility to the medical and administrative staff members for carrying out the diversion control measures and functions described in the plan.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-740 What are the requirements for opiate substitution treatment counseling? (1) A chemical dependency professional (CDP), or a CDP trainee under supervision of a CDP, must provide individual or group counseling sessions once each:

(a) Week, for the first ninety days, for a new patient or a patient readmitted more than ninety days since the person's most recent discharge from opiate substitution treatment;

(b) Week, for the first month, for a patient readmitted within ninety days of the most recent discharge from opiate substitution treatment; and

(c) Month, for a patient transferring from another opiate substitution treatment ~~((agency))~~ program where the patient stayed for ninety or more days.

(2) A CDP, or a CDP trainee under supervision of a CDP, must conduct and document a continuing care review with each patient to review progress, discuss facts, and determine the need for continuing opiate substitution treatment:

(a) Between six and seven months after admission; and

(b) Once every six months thereafter.

(3) A CDP, or a CDP trainee under supervision of a CDP, must provide counseling in a location that is physically separate from other activities.

~~(4) ((The administrator must ensure at least one full-time CDP, or a CDP trainee under supervision of a CDP, for each fifty patients:~~

~~(a) A CDP with one or more CDP trainees may be assigned as primary counselor for up to seventy-five patients, including those assigned to the CDP trainee; and~~

~~(b) A CDP trainee may be assigned up to thirty-five patients:~~

~~(5))~~ A pregnant woman and any other patient who requests, must receive at least one-half hour of counseling and education each month on:

(a) Matters relating to pregnancy and street drugs;

(b) Pregnancy spacing and planning; and

(c) The effects of opiate substitution treatment on the woman and fetus, when opiate substitution treatment occurs during pregnancy.

~~((6))~~ (5) Staff must provide at least one-half hour of counseling on family planning with each patient through either individual or group counseling.

~~((7))~~ (6) The administrator must ensure there is one staff member who has training in family planning, prenatal health care, and parenting skills.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-750 What are the requirements for opiate substitution treatment take-home medications? (1) An opiate substitution treatment provider may authorize take-home medications for a patient when:

(a) The medication is for a Sunday or legal holiday, as identified under RCW 1.16.050; or

(b) Travel to the facility presents a safety risk for patients or staff due to inclement weather.

(2) A service provider may permit take-home medications on other days for a stabilized patient who:

(a) Has received opiate substitution treatment medication for a minimum of ninety days; and

(b) Had negative urines for the last sixty days.

(3) The provider must meet ~~((21))~~ 42 CFR, Part ~~((291))~~ 8 requirements.

(4) The provider may arrange for opiate substitution treatment medication to be administered by licensed staff or self-administered by a pregnant woman receiving treatment at a certified residential treatment agency when:

(a) The woman had been receiving treatment medication for ninety or more days; and

(b) The woman's use of treatment medication can be supervised.

WSR 03-07-001

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 03-41—Filed March 5, 2003, 4:00 p.m., effective March 15, 2003]

Date of Adoption: March 5, 2003.

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: Large numbers of adult hatchery origin spring chinook are expected to return to these systems in 2003. Fishery managers predict 14,300 fish will

return to Wind River, 6,500 to Drano Lake, and 3,700 to the Klickitat River. 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: March 15, 2003.

March 5, 2003

J. P. Koenings

Director

NEW SECTION

WAC 232-28-61900L Exceptions to statewide rules—Wind River, Drano Lake, and Klickitat River. Notwithstanding the provisions of WAC 232-28-619:

(1) Klickitat River - Effective April 2 through May 31, 2003, it is lawful to fish for salmonids in those waters of the Klickitat River from the mouth to Fisher Hill Bridge - open only on Mondays, Wednesdays and Saturdays. Special daily limit of two chinook salmon greater than 12 inches in length or two hatchery steelhead greater than 20 inches in length or a combination of one such salmon and one such steelhead. Night closures and non-buoyant lure restrictions are in effect.

(2) Little White Salmon River (Drano Lake) Effective March 15 through April 30, 2003, it is lawful to fish for salmonids in those waters of the Little White Salmon River (Drano Lake) downstream of markers on a point of land downstream and across from Little White Salmon National Fish Hatchery and upstream of the Highway 14 Bridge. Special daily limit of two chinook salmon greater than 12 inches in length or two hatchery steelhead greater than 20 inches in length or a combination of one such salmon and one such steelhead. Except closed Wednesdays April 16 through May 28, 2003. Night closures and non-buoyant lure restrictions are in effect.

(3) Wind River - Effective March 15 through April 30, 2003, it is lawful to fish for salmonids in those waters of the Wind River from buoy line/markers upstream to 400 feet below Shipherd Falls. Special daily limit of two chinook salmon greater than 12 inches in length or two hatchery steelhead greater than 20 inches in length or a combination of one such salmon and once such steelhead. Night closures and non-buoyant lure restrictions are in effect.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. June 1, 2003:

WAC 232-28-61900L Exceptions to statewide rules—Wind River, Drano Lake, and Klickitat River.

WSR 03-07-002
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-43—Filed March 5, 2003, 4:01 p.m.]

Date of Adoption: March 5, 2003.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04600Q; 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: Adjustments made to boundaries of noncommercial zones are made to be consistent with state/tribal management plans. The closure of Areas 23A, 23B, 25D, 25B, 25C, and 26A West is to maintain state commercial quota plans. The closure of Areas 24A, 24B, 24C, 24D, 26A East, 22A, 22B, 21B, and 21A is due to high percentages of soft 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: Immediately.

March 5, 2003

J. P. Koenings

Director

NEW SECTION

WAC 220-52-04600U Crab fishery—Seasons and areas. Notwithstanding the provisions of WAC 220-52-046, it is unlawful to fish for Dungeness Crab for commercial purposes as provided herein:

(a) Effective immediately until further notice, it is unlawful to fish for or possess crab taken for commercial purposes from those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23B, 25D, 25B, 25C, 26A West, 24A, 24B, 24C, 24D, and 26A East.

(b) Effective 12:01 a.m. March 9, 2003 until further notice, it is unlawful to fish for or possess commercial crab taken from those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 22A, 22B, 21B, and 21A.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-04600Q Crab fishery—Seasons and areas. (03-10)

**WSR 03-07-003
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 03-44—Filed March 5, 2003, 4:02 p.m., effective March 9, 2003, 12:01 a.m.]

Date of Adoption: March 5, 2003.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-33000T; and 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: This emergency regulation is necessary to maintain allocation requirements in Marine Areas 8-1, 8-2, 9, 10, 11 and 12. Closure in Marine Areas 11, 13 and in the San Juan Islands, Anacortes and Bellingham portion of Marine Area 7 is to protect soft 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: March 9, 2003, 12:01 a.m.

March 5, 2003

J. P. Koenigs

Director

NEW SECTION

WAC 220-56-33000V Crab—Areas and seasons. Notwithstanding the provisions of WAC 220-56-330, it is lawful to fish for crab for personal use in all waters of Puget Sound except as provided herein:

(1) Effective 12:01 a.m. March 9, 2003, until further notice, it is unlawful to fish for crab in all waters of Marine Areas 8-1, 8-2, 9, 10, 11, 12, 13 and that portion of Marine Area 7 easterly and southerly of a line that extends from Point Francis on Portage Island, through the marker just north of Inati Bay on Lummi Island to Lummi Island including Bellingham, Samish and Padilla Bays, and westerly and southerly of a line from the southern most end of Lummi Island to the northernmost tip of Sinclair Island, and southerly of a line from the northernmost tip of Sinclair Island to Lawrence Point on Orcas Island and southerly of a line which runs from Steep Point on Orcas Island to Limestone Point on San Juan Island and then to Green Point on the eastern tip of Speiden Island and from the western tip of Speiden Island true west to the international boundary.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. March 9, 2003:

WAC 220-56-33000T Crab—Areas and seasons. (03-19)

**WSR 03-07-014
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 03-46—Filed March 7, 2003, 2:34 p.m.]

Date of Adoption: March 7, 2003.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04600P and 220-52-04600V; 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

EMERGENCY

notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The state may not authorize commercial shellfish harvest absent agreed planning or compliance with a process. The provisions of this rule are in conformity with agreed plans with applicable tribes which have been entered as required by the court order. 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 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.

March 7, 2003
J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-52-04600V Coastal crab fishery—Special management area. Notwithstanding the provisions of WAC 220-52-046, effective immediately until further notice, it is unlawful for non-Indian commercial fishers to fish for or take crab for commercial purposes, or place gear, in the following areas during the periods indicated:

(1) The following area is closed through April 30, 2003:

(a) Coastal waters between 47°40.50'N and 47°54.00'N, and east of a line described by the following points:

Southern point: 47°40.50'N 124°40.00'W

Northern point: 47°54.00'N 124°47.00'W

(2) The following area is closed through March 9, 2003:

(a) Coastal waters between 48°07.50'N and 48°22.86'N, and east of a line described by the following points:

Southwest point: 48°07.50'N 124°51.50'W

Northwest point: 48°20.00'N 124°50.00'W

Cape Flattery: 48°22.86'N 124°43.83'W

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-04600P Coastal crab fishery—Special management areas. (03-09)

The following section of the Washington Administrative Code is repealed effective May 1, 2003:

WAC 220-52-04600V Coastal crab fishery—Special management areas.

**WSR 03-07-015
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 03-45—Filed March 7, 2003, 2:36 p.m.]

Date of Adoption: March 7, 2003.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-04000S and 220-33-04000T; and amending WAC 220-33-040.

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 2003 smelt run size and smelt fishery regulations are consistent with Level 3 fisheries in the "Washington and Oregon Eulachon Management Plan" for the Columbia River. Sufficient numbers of smelt have escaped to spawn and enough smelt remain to allow for four eighteen-hour tributary fishing periods per week to meet commercial marketing needs. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 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.

March 7, 2003
J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-33-04000T Smelt—Areas and seasons Notwithstanding the provisions of WAC 220-33-040, effective

immediately through March 31, 2003, the Columbia River and Washington tributaries are closed to fishing for smelt except under the following provisions:

- 1) Area: Columbia River
 Dates: Sundays, Tuesdays, Thursdays, Fridays
 3:00 a.m. to 9:00 p.m. daily
 Gear: Gillnets, dipnets and trawl nets.
 Allowable sales: Smelt.
 Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

Miscellaneous: Notwithstanding the provisions of WAC 220-20-010, during open salmon and/or sturgeon seasons fishers may have stored onboard their boats, while fishing, smelt gill nets; and while smelt fishing, fishers may have stored onboard their boats, gill nets of a size that meets the commercial salmon/sturgeon mesh size, weight, and length restrictions for the open salmon/sturgeon season.

- 2) Area: Cowlitz River downstream of Peterson's Eddy
 Kalama River downstream from Modrow Bridge
 Lewis River mainstem and north fork downstream from the overhead powerlines near Eagle Island.
 Dates: 4:00 p.m. Sundays to 10:00 a.m. Mondays
 4:00 p.m. Tuesdays to 10:00 a.m. Wednesdays
 4:00 p.m. Wednesdays to 10:00 a.m. Thursdays
 4:00 p.m. Fridays to 10:00 a.m. Saturdays
 Gear: Dipnets.
 Allowable sales: Smelt.
 Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-04000S Smelt—Areas and seasons. (02-303)

The following section of the Washington Administrative Code is repealed effective April 1, 2003:

WAC 220-33-04000T Smelt—Areas and seasons.

**WSR 03-07-016
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 03-42—Filed March 7, 2003, 2:38 p.m., effective March 16, 2003, 12:01 a.m.]

Date of Adoption: March 7, 2003.
Purpose: Amend personal use fishing rules.
Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900M; 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: This is an early implementation of regulatory action approved by the Fish and Wildlife Commission for the protection of wild winter steelhead smolts and spawners in the East Fork Lewis and Washougal rivers. This rule is needed to protect wild steelhead spawners and adults until permanent regulations become effective. Staff will closely monitor future wild fish escapements to determine the need for any future rule changes. 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: March 16, 2003, 12:01 a.m.
March 7, 2003
J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 232-28-61900M Exceptions to statewide rules—East Fork Lewis River and Washougal River. Notwithstanding the provisions of WAC 232-28-619, effective March 16, 2003:

- (1) East Fork Lewis River from mouth to the top boat ramp at Lewisville Park:
 - a) Closed to all fishing March 16, 2003 through April 15, 2003.
 - b) Open to the harvest of hatchery steelhead, selective gear rules April 16, 2003 through May 31, 2003.
- (2) Washougal River from mouth to Mt. Norway Bridge at Vernon Road:
 - a) Selective gear rules April 16, 2003 through May 31, 2003.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. June 1, 2003:

WAC 232-28-61900M Exceptions to statewide rules—East Fork Lewis River and Washougal River.

EMERGENCY

WSR 03-07-023
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-47—Filed March 10, 2003, 4:37 p.m., effective April 1, 2003,
 12:01 a.m.]

Date of Adoption: March 10, 2003.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 232-28-61900N; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Agreement has been reached with Dry Falls State Park (Washington State Parks Department) to allow angler access to Dry Falls Lake about four weeks earlier than normal. This allows added recreational fishing opportunity for Washington anglers. This rule is interim until permanent rules take effect.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 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: April 1, 2003, 12:01 a.m.

March 10, 2003

Evan Jacoby
 for Jeff Koenings
 Director

NEW SECTION

WAC 232-28-61900N Exceptions to statewide rules—Dry Falls Lake (Grant Co.) Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. April 1 through April 26, 2003, it is lawful to fish for gamefish in those waters of Dry Falls Lake. Selective gear rules are in effect.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. April 27, 2003:

WAC 232-28-61900N Exceptions to statewide rules—Dry Falls Lake (Grant Co.)

WSR 03-07-024
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-48—Filed March 10, 2003, 4:39 p.m.]

Date of Adoption: March 10, 2003.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-44-05000T; and amending WAC 220-44-050.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These rules were adopted by the Pacific Fisheries Management Council and provide harvest of available stocks of bottomfish, while reserving brood stock for future fisheries. 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.

March 10, 2003

Evan Jacoby
 for Jeff Koenings
 Director

NEW SECTION

WAC 220-44-05000U Coastal bottom fish catch limits. Notwithstanding the provisions of WAC 220-44-050,

effective immediately until further notice: (1) It is unlawful to possess, transport through the waters of the state, or land into any Washington port bottom fish taken from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 60A-1, 60A-2, 61, 62, or 63 in excess of the amounts or less than the minimum sizes, or in violation of any gear, handling or landing requirement, established by the Pacific Fisheries Management Council and published in the Federal Register, Volume 68, No. 45, published March 7, 2003. Therefore, persons must consult the federal regulations, which are incorporated by reference and made a part of Chapter 220-44 WAC. Where rules refer to the fishery management area, that area is extended to include Washington State waters coterminous with the Exclusive Economic Zone. A copy of the federal rules may be obtained by contacting Evan Jacoby at (360) 902-2930.

(a) Effective immediately until further notice, it is unlawful to possess, transport through the waters of the state, or land into any Washington port, walleye pollock taken with trawl gear from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 60A-1, 60A-2, 61, 62, or 63, except by trawl vessels participating in the directed Pacific whiting fishery and the directed coastal groundfish fishery.

(b) Effective immediately until further notice, it is unlawful for trawl vessels participating in the directed Pacific whiting and/or the directed coastal groundfish fishery to land incidental catches of walleye pollock greater than forty percent of their total landing by weight, not to exceed 10,000 pounds.

(2) At the time of landing of coastal bottom fish into a Washington port, the fish buyer receiving the fish is required to clearly mark on the fish receiving ticket, in the space reserved for dealer's use, all legally defined trawl gear aboard the vessel at the time of delivery. The three trawl gear types are: midwater trawl, roller trawl and small foot rope trawl (foot rope less than eight inches in diameter). The notation of the gear type(s) aboard the vessel is required prior to the signing of the fish receiving ticket by the vessel representative.

(3) Vessels engaged in chartered research for National Marine Fisheries Service (NMFS) may land and sell bottomfish caught during that research without the catch being counted toward any trip or cumulative limit for the participating vessel. Vessels that have been compensated for research work by NMFS with an Exempted Fishing Permit (EFP) to land fish as payment for such research may land and sell fish authorized under the EFP without the catch being counted toward any trip or cumulative limit for the participating vessel. Any bottomfish landed during authorized NMFS research or under the authority of a compensating EFP for past chartered research work must be reported on a separate fish receiving ticket and not included on any fish receiving ticket reporting bottomfish landed as part of any trip or cumulative limit. Bottomfish landed under the authority of NMFS research work or an EFP compensating research with fish must be clearly marked "NMFS Compensation Trip" on the fish receiving ticket in the space reserved for dealer's use. The NMFS scientist in charge must sign the fish receiving ticket in the area reserved for dealer's use if any bottomfish are landed during authorized NMFS research. If the fish are

landed under the authority of an EFP as payment for research work, the EFP number must be listed in the dealer's use space.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-44-05000T Coastal bottomfish catch limits. (03-22)

WSR 03-07-025

EMERGENCY RULES

DEPARTMENT OF FISH AND WILDLIFE

[Order 03-49—Filed March 11, 2003, 9:45 a.m.]

Date of Adoption: March 10, 2003.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-35000N; and amending WAC 220-56-350.

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 is needed to adjust seasons to accommodate changes in resource abundance and state/tribal allocations. Reduced clam populations and overharvest of the recreational share in 2002 requires closure of the sport fishery at the Potlatch beaches, and a reduced season at Brown Point. An increased clam population at Port Townsend Ship Canal allows a longer sport season. These rules are interim until permanent rules takes effect.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 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.

March 10, 2003
Evan Jacoby
for Jeff Koenings
Director

NEW SECTION

WAC 220-56-35000P Clams other than razor clams, cockles, borers, mussels—Areas and seasons. Notwithstanding the provisions of WAC 220-56-350, effective immediately until further notice, it is unlawful to take, dig for and possess clams, cockles, and mussels taken for personal use from the following public tidelands except during the open periods specified herein:

- (1) Brown Point (DNR 57-B): Open immediately through April 15, 2003.
- (2) Port Townsend Ship Canal/Portage Canal: Open immediately through April 30, 2003.
- (3) Potlatch DNR tidelands: Closed until further notice.
- (4) Potlatch East: Closed until further notice.
- (5) Potlatch State Park: Closed until further notice.
- (6) Eagle Creek: Closed until further notice.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. May 1, 2003:

WAC 220-56-35000P Clams other than razor clams, cockles, borers, mussels—Areas and seasons.

WSR 03-07-030
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed March 11, 2003, 4:41 p.m.]

Date of Adoption: March 10, 2002 [2003].

Purpose: Adopting new WAC 388-14A-6105 to 388-14A-6125, to bring the rules of the DSHS Division of Child Support (DCS) into accord with the changes to chapter 388-02 WAC effective November 15, 2002 (WSR 02-21-061), eliminating administrative review via the DSHS Board of Appeals for all DCS hearings except for those concerning disclosure of address information under WAC 388-14A-2114 through 388-14A-2140; to clarify when the Office of Administrative Hearings (OAH) issues an initial decision and when OAH issues a final decision; to establish procedures for requesting reconsideration of a decision by OAH. DCS will be filing the CR-102, Notice of Proposed Rule Making, for the regular rule-making process, within the next few weeks.

Statutory Authority for Adoption: RCW 34.05.220(1), 74.08.090, 74.20A.055, 74.20A.056, and 74.20A.310.

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: Changes to chapter 388-02 WAC adopted effective November 15, 2002, under WSR 02-21-061 make it necessary for DCS to adopt rules regarding this subject to preserve due process rights of those affected by DCS 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 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 5, 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 5, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

March 7, 2003
Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-14A-6105 What is the difference between an initial order and a final order in a hearing involving the division of child support? (1) In an administrative hearing involving the DSHS division of child support (DCS), the administrative law judge (ALJ) enters either an initial order, which is subject to review, or a final order, which is not subject to review.

(2) The terms "**initial order**," "**final order**" and "**review**" are defined in WAC 388-02-0010, and those definitions are repeated here for ease of reference:

(a) "**Initial order**" is a hearing decision made by an ALJ that may be reviewed by a review judge pursuant to WAC 388-02-0215(4). An initial order is sometimes called an "**initial decision**."

(b) "**Final order**" means an order that is the final DSHS decision.

(c) "**Review**" means the act of reviewing initial orders and making the final agency decision as provided by RCW 34.05.464.

(3) WAC 388-14A-6110 and 388-14A-6115 describe how to determine what kind of order is entered. Whether the ALJ enters an initial order or a final order does not depend on the date the hearing is held or the date the order is entered.

(4) WAC 388-14A-6120 describes what you can do if you disagree with an initial order or final order.

(5) WAC 388-14A-6125 describes when DCS may take enforcement action on an initial order or final order.

NEW SECTION

WAC 388-14A-6110 When must an ALJ enter an initial order in a DCS hearing proceeding? An administrative law judge (ALJ) must enter an initial order in a division of child support (DCS) hearing proceeding if:

- (1) The case involves the disclosure of a party's address under WAC 388-14A-2114 through 388-14A-2140;
- (2) A custodial parent (CP) or noncustodial parent (NCP) files a hearing request before November 15, 2002;
- (3) A CP or NCP files a petition for modification with DCS or the office of administrative hearings (OAH) before November 15, 2002; or
- (4) DCS petitions for modification of an administrative order, and either the NCP or the CP is served with the notice of hearing before November 15, 2002.

NEW SECTION

WAC 388-14A-6115 When must an ALJ enter a final order in a DCS hearing proceeding? Except for cases regarding address disclosure under WAC 388-14A-2114 through 388-14A-2140, an administrative law judge (ALJ) must enter a final order in a DCS hearing proceeding if:

- (1) A custodial parent (CP) or noncustodial parent (NCP) files a hearing request on or after November 15, 2002;
- (2) An NCP or CP files a petition for modification with DCS or the office of administrative hearings (OAH) on or after November 15, 2002;
- (3) DCS petitions for modification of an administrative order, and neither the NCP nor the CP is served before November 15, 2002.

NEW SECTION

WAC 388-14A-6120 What can I do if I do not agree with an initial order or final order entered by an administrative law judge? (1) Except for the DCS representative, any party to an initial order entered by an administrative law judge (ALJ) has the right to request review pursuant to chapter 388-02 WAC.

- (2) No party may request administrative review of a final order entered by an ALJ.
- (3) Any party to an initial order or a final order may petition to vacate an order of dismissal or default, pursuant to WAC 388-14A-3700 and 388-14A-6150.
- (4) Any party to an initial order or final order may request correction of a clerical error in the order, pursuant to WAC 388-02-0540 through 388-02-0555.
- (5) Any party to a final order may request reconsideration of the order, pursuant to WAC 388-02-0605 through 388-02-0635.
- (6) Except for the DCS representative, any party to a final order may petition for judicial review, pursuant to RCW 34.05.510 through 34.05.598. You do not need to request reconsideration of the order before you petition for judicial review.

NEW SECTION

WAC 388-14A-6125 When does an initial order or final order entered by an ALJ become enforceable? (1) If no party requests review within twenty-one days of the date OAH mailed an initial order, the DSHS division of child support (DCS) may take enforcement action on the twenty-second day after OAH mailed the order.

(2) DCS may take enforcement action on a final order immediately upon entry of the order.

(a) Even if a party files a request for reconsideration, a request to correct a clerical error, a petition to vacate, or a petition for judicial review, DCS does not stop enforcement of the order.

(b) To stop DCS from enforcing a final order, you must obtain a court order staying (stopping) enforcement of the order.

WSR 03-07-032

**EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 03-50—Filed March 12, 2003, 10:14 a.m.]

Date of Adoption: March 11, 2003.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-23000A, 220-56-23500Q and 220-56-25000E; and amending WAC 220-56-230, 220-56-235, and 220-56-250.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These rules are necessary to remain consistent with federal rules that became effective March 1, 2003. Rule is needed to meet conservation goals of the new rules and provide for additional fishing opportunity for lingcod. These rules are interim until permanent rules take effect May 1, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 3, Amended 0, Repealed 3.

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-

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ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

March 11, 2003

J. P. Koenigs

Director

by Larry Peck

WSR 03-07-043

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Management Services Administration)

[Filed March 13, 2003, 2:06 p.m.]

Date of Adoption: March 6, 2003.

Purpose: Amending WAC 388-02-0215 What is the authority of the ALJ? The department is amending the rule to clarify agency hearing procedures concerning the types of cases where the DSHS Board of Appeals (BOA) may review an initial order entered by an administrative law judge (ALJ). The amended rule provides that BOA may review an initial order by an ALJ for any DSHS case where the request for a hearing was received by the Office of Administrative Hearings (OAH) on or before November 14, 2002. This amendment assures that individuals and entities that requested a hearing by this date will have the same review options that were available before the rule was amended by WSR 02-21-061. The amended rule also corrects three incorrect WAC cross references in subsection (4).

Citation of Existing Rules Affected by this Order: Amending WAC 388-02-0215.

Statutory Authority for Adoption: RCW 34.05.020.

Other Authority: Chapter 34.05 RCW, Parts IV and V.

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; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Recently adopted revisions to chapter 388-02 WAC filed as WSR 02-21-061 make this emergency rule necessary to clarify the due process rights of DSHS clients, providers, licensees and applicable others who requested a fair hearing or adjudicative proceeding on or before November 14, 2002. A CR-102 proposed rule-making notice will be filed soon to incorporate amendments in this emergency rule and other clarifying revisions to WAC 388-02-0215.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

NEW SECTION

WAC 220-56-23000A Bottomfish—Closed areas.

Notwithstanding the provisions of WAC 220-56-230, effective immediately until further notice, it is unlawful to fish for or possess bottomfish in the area enclosed by the following coordinates:

48°18'00" N latitude; 125°18'00" W longitude; then east to 48°18'00" N latitude; 124°59'00" W longitude; then south to 48°11'00" N latitude; 124°59'00" W longitude; then west to 48°11'00" N latitude; 125°11'00" W longitude; then south to 48°04'00" N latitude; 125°11'00" W longitude; then east to 48°04'00" N latitude; 124°59'00" W longitude; then south to 48°00'00" N latitude; 124°59'00" W longitude; then west to 48°00'00" N latitude; 125°18'00" W longitude; then north to 1st coordinate.

NEW SECTION

WAC 220-56-23500Q Possession limits—Bottomfish.

Notwithstanding the provisions of WAC 220-56-235, effective immediately until further notice, in those waters of Catch Record Card Areas 1 through 4 the daily bag limit is 15 bottomfish of all species combined. This includes sublimits of no more than 10 rockfish of which no more than one may be a canary rockfish and release all yelloweye.

NEW SECTION

WAC 220-56-25000E Lingcod—Areas and seasons.

Notwithstanding the provisions of WAC 220-56-250, effective 12:01 a.m. March 16, 2003 until further notice, it is lawful to fish for and possess lingcod for personal use in Catch Record Card Areas 1, 2, and 3.

REPEALER

The following sections of the Washington Administrative Code area repealed effective 12:01 a.m. May 1, 2003:

WAC 220-56-23000A Bottomfish—Closed areas.

WAC 220-56-23500Q Possession limits—Bottomfish.

WAC 220-56-25000E Lingcod—Areas and seasons.

EMERGENCY

Effective Date of Rule: Immediately.

March 6, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-21-061, filed 10/15/02, effective 11/15/02)

WAC 388-02-0215 What is the authority of the ALJ?

(1) The ALJ must hear and decide the issues de novo (anew) based on what is presented during the hearing.

(2) As needed, the ALJ may:

(a) Determine the order for presenting evidence;

(b) Issue subpoenas or orders directing witnesses to appear or bring documents;

(c) Rule on objections, motions, and other procedural matters;

(d) Rule on an offer of proof made to admit evidence;

(e) Admit relevant evidence;

(f) Impartially question witnesses to develop the record;

(g) Call additional witnesses and request exhibits to complete the record;

(h) Give the parties an opportunity to cross-examine witnesses or present more evidence against the witnesses or exhibits;

(i) Keep order during the hearing;

(j) Allow or require oral or written argument and set the deadlines for the parties to submit argument or evidence;

(k) Permit others to attend, photograph or electronically record hearings, but may place conditions to preserve confidentiality or prevent disruption;

(l) Allow a party to waive rights given by chapters 34.05 RCW or 388-02 WAC, unless another law prevents it;

(m) Decide whether a party has a right to a hearing;

(n) Issue protective orders;

(o) Consider granting a stay if authorized by law or DSHS rule; and

(p) Take any other action necessary and authorized under these or other rules.

(3) The ALJ administers oaths or affirmations and takes testimony.

(4) The ALJ enters an initial order in those cases where the parties may request review of an initial order by a review judge. Cases where the parties may request review of an initial order by a review judge are those relating to:

(a) Adult family home licenses under chapter 388-76 WAC;

(b) Boarding home licenses under chapter 388-78A WAC;

(c) Resident protection program findings under WAC 388-97-077;

(d) Nursing home licenses under WAC 388-97-550 through 388-97-695;

(e) Self-directed care under RCW 74.39A.050(9) and WAC 388-71-0150 and 388-71-0155;

(f) Termination of provider for placing clients in imminent jeopardy under RCW 74.39A.095(7) and WAC 388-71-0551;

(g) Termination of provider due to inadequate performance or inability to deliver quality care under RCW 74.39A.095(7) and WAC 388-71-0540 and 388-71-0551;

(h) Denial of contract to provider due to inability of provider to appropriately meet the care needs of clients under RCW 74.39A.095(8) and WAC 388-71-0546;

(i) Denial or termination of a contract to a provider due to a disqualifying crime or lack of character, competence, or suitability to maintain the health, safety, and well-being of clients under RCW 43.20A.710 and WAC 388-71-0540;

(j) Social service eligibility under WAC 388-71-0400 through 388-71-0480, 388-71-0202, and 388-71-0203;

(k) Domestic violence perpetrator treatment program certification under chapter 388-60 WAC;

(l) Licensing or certification of child foster care homes, programs, facilities, and agencies under chapter 74.15 RCW and chapters 388-148 and 388-160 WAC;

(m) Child protective services findings of abuse and neglect under RCW 26.44.125 and chapter 388-15 WAC;

(n) Adoption support under WAC 388-27-0120 through 388-27-0390, for which a hearing has been held under WAC 388-27-0365;

(o) Child day care licenses under chapter 74.15 RCW and chapters 388-150, 388-151, and 388-155 WAC;

(p) Background checks of protective payees under WAC 388-460-0025, for which a hearing has been held under WAC 388-460-0070;

(q) Background checks of child care providers and other persons under WAC 388-290-0143, for which a hearing has been held under WAC 388-290-0260 as part of the working connections child care program;

(r) Background checks of persons acting in the place of a parent under WAC 388-454-0006, for which a hearing has been held under WAC 388-472-0005 (1)(j);

(s) Claims of good cause for not cooperating with the division of child support under WAC 388-422-0020;

(t) Parent address disclosure under WAC 388-14A-2114 through 388-14A-2140;

(u) Chemical dependency treatment provider certification under chapter 388-805 WAC;

(v) Community residential services and support certification, for which a hearing has been held under WAC 388-820-920;

(w) Denial or termination of eligibility for services under WAC 388-825-100, for which a hearing has been held under WAC 388-825-120 (1)(a);

(x) Development or modification of an individual service plan under WAC 388-825-050, for which a hearing has been held under WAC 388-825-120 (1)(b);

(y) Authorization, denial, reduction, or termination of services under WAC 388-825-100, for which a hearing has been held under WAC 388-825-120 (1)(c);

(z) Licensed community facilities under RCW 74.15.210 and WAC 388-730-0090;

(aa) Community mental health and involuntary treatment program licenses under WAC 388-865-0480;

(bb) Medical, dental, or transportation services, for which a hearing has been held under WAC 388-526-2610;

(cc) Medical provider overpayments, for which a hearing has been held under WAC 388-502-0230(5) or 388-502-0240(17); or

(dd) Other cases for which a right to a hearing exists, if a request for a hearing was received by OAH or DSHS on or before November 14, 2002, and other rules do not require the ALJ to enter a final order.

(5) The ALJ makes the final decision and enters the final order in all cases except those cases set forth in subsection (4) of this section.

(6) A review judge has the same authority as an ALJ when presiding at a hearing.

WSR 03-07-044

EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 03-52—Filed March 13, 2003, 2:52 p.m.]

Date of Adoption: March 12, 2003.

Purpose: Amend commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100Z and 220-32-05100A; and amending WAC 220-32-051.

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: Prohibits the sale of salmon for the remainder of the tribal winter season, based on recommendations of the Columbia River treaty tribes. Fisheries are consistent with the interim management agreement and the biological opinion. Rule is consistent with action of the Columbia River compact on December 18, 2002, and March 12, 2003. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 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: March 13, 2003, 6:00 p.m.

March 12, 2003

J. P. Koenings

Director

NEW SECTION

WAC 220-32-05100A Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052, WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, shad, or sturgeon taken for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, steelhead, walleye, shad, carp, or sturgeon under the following provisions:

1) Open Periods: Effective 6:00 p.m. March 13, 2003 through 12:00 p.m. March 21, 2003.

2) Open Areas: SMCRA 1F, 1G, 1H

3) Gear: No mesh restriction on gillnets. Hoop nets, dip bag nets, and rod and reel with hook and line.

4) Allowable sale: steelhead, walleye, shad, carp, and sturgeon. Sturgeon between 4 feet and 5 feet in length may be sold.

5) Miscellaneous: Sale of platform or hook and line caught fish is allowed during open commercial season.

6) Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

7) Notwithstanding the provisions of WAC 220-32-058, the closed area at the mouth of:

a) Hood River are those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles down river from the west bank at the end of the break wall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

b) Herman Creek are those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

c) Deschutes River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

d) Umatilla River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

e) Big White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

f) Wind River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles down-

stream from the west bank and 1/2 mile upstream from the east bank.

g) Klickitat River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1/8 miles downstream from the west bank.

h) Little White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upstream from the eastern shoreline.

3) Notwithstanding the provisions of WAC 220-22-010, during the open periods described above:

a) Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of the Gods, and downstream from the west end of the 3 Mile Rapids located approximately 1.8 miles below the Dalles Dam.

b) Area 1G includes those waters of the Columbia River upstream from a line drawn between a deadline marker on the Oregon shore located approximately 3/4 miles above The Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in mid-river, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy Light below John Day Dam.

c) Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately 1/2 mile above the John Day River, Oregon, extending at a right angle across the thread of the river to a point in mid-river, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 p.m. March 13, 2003:

WAC 220-32-05100Z Columbia River salmon seasons above Bonneville Dam. (02-307)

The following section of the Washington Administrative Code is repealed effective 12:01 p.m. March 21, 2003:

WAC 220-32-05100A Columbia River salmon seasons above Bonneville Dam.

**WSR 03-07-064
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 03-53—Filed March 17, 2003, 11:34 a.m., effective April 1, 2003, 12:01 a.m.]

Date of Adoption: March 14, 2003.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900Q; 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 a notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: A significant number of hatchery-origin steelhead from the 2002/2003 run remain in the Columbia River near the Ringold Spring Rearing Facility. This harvest sport fishery will allow anglers the opportunity to take full advantage of the remaining hatchery-origin steelhead from the 2002/2003 run. NOAA Fisheries (NMFS) has given approval to continue a hatchery steelhead sport fishery in the Ringold Area Bank Fishery boundaries. The fishery will be monitored to assess 2003/2004 steelhead run impacts. 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: April 1, 2003, 12:01 a.m.

March 14, 2003

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 232-28-61900Q Exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. April 1, 2003 through April 15, 2003, in those waters of the Columbia River adjacent to Ringold Hatchery (in Franklin County north of Pasco) from the WDFW markers 1/4 mile downstream of the Ringold irrigation wasteway outlet to the markers 1/2 mile

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upstream of Spring Creek, the daily limit is two hatchery (Hatchery steelhead are identified by a missing adipose or ventral fin and a healed scar in the location of the missing fin.) steelhead, minimum size 20 inches in length. Fishing is only from the hatchery side (east bank) and only from the bank.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. April 16, 2003:

WAC 232-28-61900Q Exceptions to statewide rules—Columbia River.

WSR 03-07-068
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-54—Filed March 17, 2003, 4:01 p.m., effective April 1, 2003, 12:01 a.m.]

Date of Adoption: March 14, 2003.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900R; 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 2002/2003 Chehalis River system and upper Quinault River wild winter steelhead run-sizes are forecasted to be well above escapement needs. The fishing seasons are being extended to allow increased catch-and-release opportunity on the Chehalis River system and increased harvest opportunity on the Quinault River for returning wild steelhead. The extensions will also allow additional opportunity for anglers to harvest hatchery fish. 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 Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: April 1, 2003, 12:01 a.m.

March 14, 2003

J. P. Koenings

Director

NEW SECTION

WAC 232-28-61900R Exceptions to statewide rules—Chehalis River, Quinault River, Satsop River and Wynoochee River. Notwithstanding the provisions of WAC 232-28-619:

Chehalis River: Effective April 16, 2003 through April 30, 2003, it is lawful to fish for gamefish from the mouth to High Bridge on Weyerhaeuser 1000 line approximately 400 yards downstream of Roger Creek. Wild steelhead release in effect.

Quinault River: Effective April 1, 2003 through April 15, 2003, it is lawful to fish for gamefish from the mouth at upper end of Quinault Lake upstream to National Park boundary.

Satsop River and East Fork: Effective April 1, 2003 through April 15, 2003, it is lawful to fish for gamefish from the mouth to bridge at Schafer State Park. Wild steelhead release in effect.

Wynoochee River: Effective April 1, 2003 through April 15, 2003, it is lawful to fish for gamefish from the mouth to 7400 Line Bridge above mouth of Schafer Creek. Wild steelhead release in effect.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. May 1, 2003:

WAC 232-28-61900R Exceptions to statewide rules—Chehalis River, Quinault River, Satsop River and Wynoochee River.

WSR 03-07-075
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-51—Filed March 18, 2003, 1:45 p.m., effective March 24, 2003, 12:01 a.m.]

Date of Adoption: March 17, 2003.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900P; 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: This regulation is needed to enact a closure established during the preseason planning process for sturgeon fishery management to keep the 2003 sport harvest within the 32,000 white sturgeon guideline. 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: March 24, 2003, 12:01 a.m.

March 17, 2003

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 232-28-61900P Exceptions to statewide rules—Columbia River (sturgeon). Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. March 24, through June 30, 2003, it is unlawful to retain sturgeon caught in those waters of the Columbia River and tributaries from Bonneville Dam downstream to the Wauna powerlines.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. July 1, 2003:

WAC 232-28-61900P Exceptions to statewide rules—Columbia River (sturgeon).



OFFICE OF THE CODE REVISER
 Quarterly Rule-Making Report
 Covering Registers 03-01 through 03-06

Type of Activity	New	Amended	Repealed
ACADEMIC ACHIEVEMENT AND ACCOUNTABILITY COMMISSION			
Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	2	0	1

AGRICULTURE, DEPARTMENT OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	12	21	7
Number of Rules Adopted as Emergency Rules	1	0	0
Number of Rules Proposed for Permanent Adoption	4	18	15
Number of Sections Adopted at Request of a Nongovernmental Entity	0	2	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	7	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	2	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	13	19	7
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	10	6	2
Number of Sections Adopted using Pilot Rule Making	0	0	0

BELLEVUE COMMUNITY COLLEGE			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	3	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	3	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	3	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	3	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

BUILDING CODE COUNCIL			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	2	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	3	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	3	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
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COUNTY ROAD ADMINISTRATION BOARD

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	10	1
Number of Rules Proposed for Permanent Adoption	0	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

CRIMINAL JUSTICE TRAINING COMMISSION

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	16	5	0
Number of Rules Proposed for Permanent Adoption	0	2	0
Number of Rules Withdrawn	0	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

ECOLOGY, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	50	19	0
Number of Rules Adopted as Emergency Rules	0	1	0
Number of Rules Proposed for Permanent Adoption	16	31	16
Number of Sections Adopted at Request of a Nongovernmental Entity	2	8	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	26	12	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	20	15	1
Number of Sections Adopted on the Agency's own Initiative	28	6	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

EDUCATION, STATE BOARD OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	13	9
Number of Rules Adopted as Emergency Rules	0	2	0
Number of Rules Proposed for Permanent Adoption	0	1	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Rules Withdrawn	1	1	12
Number of Sections Adopted at Request of a Nongovernmental Entity	0	1	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	9	7
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	1	14	7
Number of Sections Adopted using Negotiated Rule Making	1	14	7
Number of Sections Adopted using Other Alternative Rule Making	0	1	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

EMPLOYMENT SECURITY DEPARTMENT

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	8	0	6
Number of Rules Proposed for Permanent Adoption	8	0	6
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	8	0	6
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

FISH AND WILDLIFE, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	17	35	7
Number of Rules Adopted as Emergency Rules	49	0	52
Number of Rules Proposed for Permanent Adoption	22	41	31
Number of Rules Withdrawn	0	2	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	1	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	1	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	63	36	57
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	1	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

FOREST PRACTICES BOARD

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	6	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	1	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	1	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	1	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

GAMBLING COMMISSION

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	6	0
Number of Rules Proposed for Permanent Adoption	0	8	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	6	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	6	0
Number of Sections Adopted using Negotiated Rule Making	0	6	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

HEALTH CARE AUTHORITY

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	1	1	0

HEALTH, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	24	12	12
Number of Rules Adopted as Emergency Rules	0	1	0
Number of Rules Proposed for Permanent Adoption	20	63	6
Number of Sections Adopted at Request of a Nongovernmental Entity	1	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	14	8	12
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	2	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	16	8	11
Number of Sections Adopted on the Agency's own Initiative	21	15	11
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	17	11	12
Number of Sections Adopted using Pilot Rule Making	0	0	0

HIGHER EDUCATION COORDINATING BOARD

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	8	1
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	8	1
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	2	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
HORSE RACING COMMISSION			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	4	0
Number of Rules Proposed for Permanent Adoption	1	7	1
Number of Rules Withdrawn	0	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	1	3	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	1	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
INDUSTRIAL INSURANCE APPEALS, BOARD OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	2	8	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	2	8	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	2	8	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
INSURANCE COMMISSIONER, OFFICE OF THE			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	5	0
Number of Rules Proposed for Permanent Adoption	15	2	0
Number of Rules Withdrawn	1	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	5	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	5	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	1	0
Number of Sections Adopted on the Agency's own Initiative	0	4	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	1	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
LABOR AND INDUSTRIES, DEPARTMENT OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	18	55	1
Number of Rules Proposed for Permanent Adoption	156	21	242
Number of Rules Withdrawn	1	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0

MISC.

Type of Activity	New	Amended	Repealed
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	16	12	1
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	26	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	1	24	1
Number of Sections Adopted on the Agency's own Initiative	17	14	1
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	17	54	1
Number of Sections Adopted using Pilot Rule Making	0	0	0

LAKE WASHINGTON TECHNICAL COLLEGE

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	1	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

LICENSING, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	1	34	4
Number of Rules Proposed for Permanent Adoption	1	33	1
Number of Rules Withdrawn	1	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	3	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	1	17	1
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	18	3
Number of Sections Adopted using Negotiated Rule Making	1	18	1
Number of Sections Adopted using Other Alternative Rule Making	0	16	3
Number of Sections Adopted using Pilot Rule Making	0	0	0

LIQUOR CONTROL BOARD

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	7	0	7

LOTTERY, WASHINGTON STATE

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	1	0	0

MILITARY DEPARTMENT

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	11	0	9

MISC.

Type of Activity	New	Amended	Repealed
PARKS AND RECREATION COMMISSION			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	8	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	8	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	8	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	8	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
PERSONNEL, DEPARTMENT OF			
Type of Activity	New	Amended	Repealed
Number of Rules Adopted as Emergency Rules	1	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	1	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	1	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
PILOTAGE COMMISSIONERS, BOARD OF			
Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	2	0	0
POLLUTION LIABILITY INSURANCE AGENCY			
Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	0	3	0
Number of Permanent Rules Adopted	0	3	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	4	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
PUBLIC DISCLOSURE COMMISSION			
Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	2	1	0

MISC.

Type of Activity	New	Amended	Repealed
PUBLIC EMPLOYMENT RELATIONS COMMISSION			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	23	18	0
Number of Rules Adopted as Emergency Rules	1	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	6	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	24	18	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	23	16	0
Number of Sections Adopted on the Agency's own Initiative	18	18	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
PUBLIC INSTRUCTION, SUPERINTENDENT OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	11	6
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	7	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	5	0
Number of Sections Adopted on the Agency's own Initiative	0	2	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	12	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
RETIREMENT SYSTEMS, DEPARTMENT OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	3	11	0
Number of Rules Proposed for Permanent Adoption	12	14	1
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	3	11	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0
REVENUE, DEPARTMENT OF			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	2	0
Number of Rules Adopted as Emergency Rules	1	1	0
Number of Rules Proposed for Permanent Adoption	8	1	12
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0

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Type of Activity	New	Amended	Repealed
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	1	1	0
Number of Sections Adopted on the Agency's own Initiative	1	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	1	3	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

SEATTLE COMMUNITY COLLEGES

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	26	12	36

SECRETARY OF STATE

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	9	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	0	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	10	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

SOCIAL AND HEALTH SERVICES, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	265	47	230
Number of Rules Adopted as Emergency Rules	199	107	1
Number of Rules Proposed for Permanent Adoption	312	24	54
Number of Rules Withdrawn	1	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	255	67	229
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	131	5	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	7	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	75	77	2
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	5	0
Number of Sections Adopted using Other Alternative Rule Making	461	151	231
Number of Sections Adopted using Pilot Rule Making	0	0	0

SOUTH PUGET SOUND COMMUNITY COLLEGE

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	0	1	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	1	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	0	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0

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Type of Activity	New	Amended	Repealed
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

TRANSPORTATION, DEPARTMENT OF

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	34	3	13
Number of Rules Adopted as Emergency Rules	28	4	14
Number of Rules Proposed for Permanent Adoption	28	7	13
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	6	3	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	54	2	26
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	6	1	1
Number of Sections Adopted on the Agency's own Initiative	6	4	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	6	1	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

UNIVERSITY OF WASHINGTON

Type of Activity	New	Amended	Repealed
Number of Rules Proposed for Permanent Adoption	1	10	0

UTILITIES AND TRANSPORTATION COMMISSION

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	65	4	46
Number of Rules Withdrawn	3	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	2	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	58	4	41
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	1	0	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	0	0	0
Number of Sections Adopted using Pilot Rule Making	0	0	0

WASHINGTON STATE PATROL

Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	22	1	0
Number of Rules Proposed for Permanent Adoption	0	6	0
Number of Rules Withdrawn	1	0	0
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	0	1	0
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	22	0	0
Number of Sections Adopted on the Agency's own Initiative	0	1	0
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	22	0	0
Number of Sections Adopted using Pilot Rule Making	0	1	0

MISC.

Type of Activity	New	Amended	Repealed
WESTERN WASHINGTON UNIVERSITY			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	38	0	29
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	38	0	29
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	38	0	29
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	38	0	29
Number of Sections Adopted using Pilot Rule Making	0	0	0
WHATCOM COMMUNITY COLLEGE			
Type of Activity	New	Amended	Repealed
Number of Permanent Rules Adopted	5	17	14
Number of Sections Adopted at Request of a Nongovernmental Entity	0	0	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	5	17	14
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	0	0	0
Number of Sections Adopted in Order to Comply with Federal Statute	0	0	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	0	0	0
Number of Sections Adopted on the Agency's own Initiative	5	17	14
Number of Sections Adopted using Negotiated Rule Making	0	0	0
Number of Sections Adopted using Other Alternative Rule Making	5	17	14
Number of Sections Adopted using Pilot Rule Making	0	0	0
TOTALS FOR THE QUARTER:			
Number of Permanent Rules Adopted	617	373	386
Number of Rules Adopted as Emergency Rules	280	116	67
Number of Rules Proposed for Permanent Adoption	656	307	451
Number of Rules Withdrawn	9	7	12
Number of Sections Adopted at Request of a Nongovernmental Entity	11	23	0
Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures	457	233	335
Number of Sections Adopted in Order to Comply with Federal Rules or Standards	185	36	26
Number of Sections Adopted in Order to Comply with Federal Statute	0	9	0
Number of Sections Adopted in Order to Comply with Recently Enacted State Statutes	164	151	16
Number of Sections Adopted on the Agency's own Initiative	234	197	135
Number of Sections Adopted using Negotiated Rule Making	2	44	8
Number of Sections Adopted using Other Alternative Rule Making	578	288	292
Number of Sections Adopted using Pilot Rule Making	0	1	0

MISC.

WSR 03-07-008
RULES COORDINATOR
WASHINGTON STATE UNIVERSITY

[Filed March 7, 2003, 9:30 a.m.]

Pursuant to RCW 28B.10.528, on January 24, 1986, the board of regents passed a resolution, which delegated authority to the president to act on behalf of the board of regents in matters pertaining to the management of Washington State University. This delegation included the authority to designate subordinates with appropriate authority.

I hereby designate Kirsten Pauli as rules coordinator for the Administrative Procedure Act to appoint hearing officers, as appropriate, to conduct hearings on administrative rules proposed for review and adoption. This delegation of authority continues as long as you hold the position of rules coordinator for the Administrative Procedure Act at Washington State University or until revoked by me.

V. Lane Rawlins
 President

WSR 03-07-017
RULES COORDINATOR
COUNTY ROAD
ADMINISTRATION BOARD

[Filed March 10, 2003, 10:02 a.m.]

Following is the designated rules coordinator for our agency: Karen Pendleton, County Road Administration Board, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, karen@crab.wa.gov.

Jay P. Weber
 Executive Director

WSR 03-07-018
RULES OF COURT
STATE SUPREME COURT

[March 7, 2003]

IN THE MATTER OF THE ADOPTION) ORDER
 OF THE AMENDMENT TO RPC 6.1) NO. 25700-A-760

The Washington State Bar Association having recommended the adoption of the proposed amendment to RPC 6.1, and a majority of the Court having approved the proposed amendment for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(f), the proposed amendment as attached hereto is to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Office of the Administrator for the Court's websites expeditiously for a 90 day comment period.

(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 U.S. Mail or Internet E-Mail by no later than 90 days from the published date in the Washington Reports. 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 7th day of March 2003.

For the Court
 Gerry L. Alexander
 CHIEF JUSTICE

GR 9 COVER SHEET

Suggested Amendments
RULES OF PROFESSIONAL CONDUCT (RPC)
RULE 6.1 PRO BONO PUBLIC SERVICE

Purpose:

The mission of the Washington State Bar Association's Pro Bono and Legal Aid Committee (PBLAC) is to encourage and facilitate the participation of attorneys in pro bono representation of low income people. As part of this mission, PBLAC has proposed amendments to RPC 6.1, which is the ethical rule that addresses a lawyer's professional responsibility to provide pro bono public service. The purpose is to encourage greater pro bono participation in the state, which is critical given the ongoing legal services funding crisis and the attendant loss of capacity of the civil equal justice delivery system to provide legal services to low income and vulnerable populations. Participation on formal pro bono panels in our state is stagnant - and has been for a number of years - despite an annual increase the number of new lawyers. Currently just under 9% of all active WSBA members participate on formal pro bono panels. While there is anecdotal information that many attorneys provide pro bono legal services to low income clients outside these formal structures, there is no mechanism to track those contributions.

The proposed amendments to RPC 6.1 address these concerns as follows:

- Codifies the existing suggested 30-hour pro bono contribution: The Board of Governors has, on three previous occasions, adopted resolutions recommending that attorneys donate at least 30 hours per year of public interest legal services. These resolutions are not made available as a matter of course to WSBA members. Formalizing this 30 hour suggested contribution by including it in the Rules of Professional Conduct is a powerful vehicle for insuring that attorneys have a clear benchmark for fulfilling their professional responsibilities, as well as for teaching professional responsibility in law schools.

- Defines pro bono legal services: The proposed amendments are substantially similar to Revised ABA Model Rule 6.1, with the following modifications: (i) the words "[E]very lawyer" in the first sentence of the ABA Rule are replaced with "[T]he legal profession," and now reads: "The legal pro-

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profession has a professional responsibility to provide legal services to those unable to pay."; (ii) the proposed amendments add the words "aspire to" in the second sentence of the ABA Model Rule, and now reads: "A lawyer should aspire to render at least (30) hours of pro bono public legal services per year."; (iii) the proposed amendments remove any suggestion of prioritization of pro bono legal services by deleting the words "a substantive majority of the thirty (30) hours

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

WSR 03-07-019
RULES OF COURT
STATE SUPREME COURT

[March 7, 2003]

SUGGESTED AMENDMENTS
RULES OF PROFESSIONAL RESPONSIBILITY
(RPC)
RPC 6.1 PRO BONO PUBLICO SERVICE

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENTS TO CrR 3.3, CrR) NO. 25700-A-761
2.2, CrR 4.1, CrRLJ 3.3, CrRLJ 2.2, CrRLJ)
4.1 and JuCR 7.8)

[CURRENT RULE]

~~RPC 6.1 Pro Bono Publico Service. A lawyer should render public interest legal service. A lawyer may discharge this responsibility by providing professional services at no fee or a reduced fee to persons of limited means or to public service or charitable groups or organizations, by service in activities for improving the law, the legal system or the legal profession, and by financial support for organizations that provide legal services to persons of limited means.~~

The Board for Judicial Administration's Time for Trial Task Force having recommended the adoption of the proposed amendments to CrR 3.3, CrR 2.2, CrR 4.1, CrRLJ 3.3, CrRLJ 2.2, CrRLJ 4.1 and JuCR 7.8, and a majority of 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 proposed amendments as attached hereto are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Office of the Administrator for the Court's websites expeditiously for a 90 day comment period.

(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 U.S. Mail or Internet E-Mail by no later than 90 days from the published date in the Washington Reports. 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 7th day of March 2003.

For the Court
Gerry L. Alexander
CHIEF JUSTICE

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 03-09 issue of the Register.

WSR 03-07-020
RULES OF COURT
STATE SUPREME COURT

[March, 2003]

The legal profession has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least thirty (30) hours of pro bono publico service per year. In fulfilling this responsibility, the lawyers should:

(a) provide legal services without fee or expectation of fee to:

- (1) persons of limited means or
- (2) charitable, religious, civil, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; and

(b) provide pro bono publico service through:

- (1) delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civil, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate;
- (2) delivery of legal services at a substantially reduced fee to persons of limited means; or
- (3) participation in activities for improving the law, the legal system or the legal profession.

In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means.

Pro bono publico service may be reported on the annual fee statement furnished to the WSBA. Lawyers rendering a minimum of fifty (50) hours of pro bono publico service shall receive a recognition award for such service from the WSBA.

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Court having approved the proposed new rule for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(f), the proposed new rule as attached hereto is to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Office of the Administrator for the Court's websites expeditiously.

(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 U.S. Mail or Internet E-Mail by no later than May 30, 2003. 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 ___ day of March 2003.

For the Court
Gerry L. Alexander
CHIEF JUSTICE

GR 9 COVER SHEET

**Suggested New Rule
GR 30**

ELECTRONIC FILING RULE

Submitted by the

Judicial Information System Committee

Purpose: The suggested electronic filing rule would allow statewide electronic filing in all state, district, and municipal courts in Washington allowing electronic documents to have the same legal effect as a paper document. Several states and the federal courts have promulgated electronic filing rules. Practitioners have found electronic filing to be expeditious and resourceful. The suggested rule is a general rule that addresses the major issues that accompany electronic filing while allowing the specifics to be addressed by local rules. The local courts can develop and explore different ways to implement electronic filing using this suggested rule as a guideline.

The rule was drafted by a subcommittee of lawyers, judges, and court clerks from throughout the state and unanimously approved by the JISC. The suggested rule contains a definition section, and authorization section, describes when electronic documents are considered filed, indicates that electronic documents are considered signed when filed as long as the filing party retains the original document for future inspection by the parties or the court, and addresses filing fees.

**NEW RULE
GR 30
ELECTRONIC FILING**

GR 30.1 Definitions

(a) "Electronic Filing" is the electronic transmission of information to a court or court clerk for case processing.

(b) "Electronic Document" is an electronic version of information otherwise filed in paper form, except for documents filed by facsimile which are addressed in GR 17.

(c) "Electronic Filing Technical Standards" are those standards which have been adopted by the Judicial Information System Committee to implement electronic filing.

GR 30.2 Electronic filing authorization, exception, service, and technology equipment.

(a) The court clerk may accept for filing an electronic document that complies with the Court Rules and the electronic filing technical standards adopted by the Judicial Information System Committee.

(b) A document that is required by law to be filed in non-electronic media may not be electronically filed.

COMMENT: Certain documents are required by law to be filed in non-electronic media. Examples are original wills, certified records of proceedings for purposes of appeal, negotiable instruments, and documents of foreign governments under official seal.

(c) Electronic Transmission from the Court. The court clerk may electronically transmit notices, orders, or other documents to the party filing electronically, and to any other person who agrees to accept electronic documents from the court.

(d) Electronic Service by Parties. Parties may electronically serve documents on other parties of record only by agreement or order of the court.

(e) Electronic Filing Not Required. Electronic filing is voluntary. An attorney, party, court, or court clerk is not required to have the equipment necessary to accept or file electronic documents.

GR 30.3 An electronic document has the same legal effect as a paper document.

GR 30.4 Time of Filing, Confirmation, and Rejection.

(a) An electronic document is filed when it is received by the court clerk's designated computer during the clerk's business hours; otherwise the document is considered filed at the beginning of the next business day.

(b) The court clerk shall issue confirmation that an electronic document has been received.

(c) The court clerk may reject a document that fails to comply with the court's filing requirements.

GR 30.5. Signatures, Affidavits, Retention and Inspection of Original Documents, Sanctions, and Providing Copies of Original Documents to Opposing Party.

(a) Signatures. An electronic document is deemed signed when filed.

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(b) Affidavits and other statements signed under penalty of perjury. A filing party may file an electronic document signed under penalty of perjury only if the filing party possesses the original signed paper document.

(c) Retention. The attorney of record or the filing party must retain all original signed documents for three years from the filing date or 60 days from the final judgment following exhaustion of all appeals, whichever is later.

(d) Inspection of Original Document. The court may require production of an original document on its own initiative or on request of the opposing party. If the original signed document is not produced, the electronic document will be treated as unsigned and disregarded.

(e) Sanctions and reimbursement of expenses. Sanctions may be imposed for failure to produce the original signed document. The opposing party may also be reimbursed for any expenses incurred because of the filing of the unsigned document.

(f) Copies. Within three days of request by the court or any party, the filing party shall provide paper copies of signed documents to the requesting party or the court.

GR 30.6. Filing fees, electronic filing fees.

(a) The court clerk is not required to accept electronic documents that require a fee. If the court clerk does accept electronic documents that require a fee, the local courts must develop procedures for fee collection that comply with the payment and reconciliation standards established by the Administrative Office of the Courts and the Washington State Auditor.

(b) Anyone entitled to waiver of non-electronic filing fees will not be charged electronic filing fees. The court or court clerk shall establish an application and waiver process consistent with the application and waiver process used with respect to non-electronic filing and filing fees.

WSR 03-07-021

**NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY**

[Memorandum—March 10, 2003]

**BOARD OF TRUSTEES
OPEN COMMITTEE MEETINGS NOTICE**

Thursday, March 6, 2003

Cheney Campus, Pence Union Building

5:00 - 8:00 p.m. Committee of the Whole—
Strategic Plan Work Session
PUB 263-267
No final action will be taken at this work session.

Friday, March 7, 2003

Riverpoint Campus, SIRTI Building

8:00 - 10:00 a.m. Academic Affairs Committee
SIRTI 425

10:00 - 11:45 a.m. Student Affairs Committee
SIRTI 425
12:00 - 1:00 p.m. Executive Session
SIRTI 425
(Not open to the public)
1:00 p.m. Board of Trustees Meeting
SIRTI 432

WSR 03-07-022

OFFICE OF THE GOVERNOR

[Filed March 10, 2003, 10:04 a.m.]

**NOTICE OF APPEAL
RCW 34.05.330(3)**

Pursuant to RCW 34.05.330(3), you are hereby notified for publication in the Washington State Register that:

On March 3, 2003, the Governor received an appeal to the August 31, 2002 denial by the Architect Registration Board (ARB) to the Washington State Association of Building Designers (WSABD) regarding approval of changes to RCW 18.08.410. The WSABD is asking for repeal of the rulemaking relating to building designers, engineers and architects.

DATED: March 7, 2003

Jennifer Joly
General Counsel
to the Governor

WSR 03-07-026

**NOTICE OF PUBLIC MEETINGS
EXECUTIVE ETHICS BOARD**

[Memorandum—March 10, 2003]

NOTICE OF MEETING CANCELLATION

This is to notify all interested persons, that the Executive Ethics Board's regular meeting, scheduled for March 14, 2003, has been cancelled.

If you have any questions, please contact Executive Ethics Board staff at (360) 664-0871.

WSR 03-07-027

**NOTICE OF PUBLIC MEETINGS
SHORELINE COMMUNITY COLLEGE**

[Memorandum—March 10, 2003]

The board of trustees of Shoreline Community College will hold a special meeting on Thursday, March 13, 2003, for the purpose of meeting with individual chairs of appointment review committees of those faculty members being considered for tenure. The meeting will be held from 10:00 a.m. to 6:00 p.m. in the boardroom of the administration building

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and will include President Holly Moore and Vice-President for Academic Affairs, Carol Henderson.

Please call (206) 546-4552 or e-mail Michele Foley at mfoley@ctc.edu if you need further information.

WSR 03-07-028
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
GENERAL ADMINISTRATION
(State Capitol Committee)
[Memorandum—March 7, 2003]

Please publish a notice of cancellation for the Thursday, March 13, 2003, State Capitol Committee meeting.

If you have any questions, Lenore Miller can be reached at (360) 902-0970.

WSR 03-07-029
NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE
[Memorandum—March 11, 2003]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, March 20, 2003, 9:00 - 11:00 a.m., in the College Services Building Board Room on the Bellingham Technical College campus. Call 738-3105 ext. 334 for information.

WSR 03-07-039
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed March 13, 2003, 1:59 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: CN 231.
Subject: Chapter 12 - Noncompliance.
Effective Date: February 19, 2003.
Document Description: This notice explains to the Division of Child Support (DCS) staff how to handle instances of noncompliance. This notice replaces DCS Handbook Chapter 12.

To received a copy of the interpretive or policy statement, contact Stephanie Schiller, Division of Child Support, P.O. Box 9162, Olympia, WA 98507-9162, phone (360) 664-5230, TDD (360) 753-9122, fax (360) 586-3274, e-mail sschille@dshs.wa.gov.

March 5, 2003
Stephanie E. Schiller

WSR 03-07-045
RULES OF COURT
STATE SUPREME COURT
[March 12, 2003]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENT TO GR 23) NO. 25700-A-763
(c)(2)(xiv))

The Certified Professional Guardian Board having recommended the adoption of the proposed amendment to GR 23 (c)(2)(xiv), and the Court having determined that the proposed amendment will aid in the prompt and orderly administration of justice and further determined that an emergency exists which necessitates an early adoption;

Now, therefore, it is hereby

ORDERED:

(a) That the amendment as attached hereto is adopted.

(b) That pursuant to the emergency provisions of GR 9(i), the amendment will be published expeditiously and become effective upon publication.

DATED at Olympia, Washington this 12th day of March 2003.

Alexander, C.J.

Johnson, J.	Ireland, J.
Madsen, J.	Chambers, J.
Bridge, J.	Owens, J.
Sanders, J.	Mary E. Fairhurst

GR 23. RULE FOR CERTIFYING PROFESSIONAL GUARDIANS

(a) - (b) [Unchanged.]

(c) **Certified Professional Guardian Board.**

(1) [Unchanged.]

(2) *Duties and Powers.*

(i) Applications. The Board shall process applications for professional guardian certification under this rule. The Board may delay or deny certification if an applicant fails to provide required basic or supplemental information.

(ii) Standards of Practice. The Board shall adopt and implement policies or regulations setting forth minimum standards of practice which professional guardians shall meet.

(iii) Training Program. The Board shall adopt and implement regulations establishing a professional guardian-training program.

(iv) Examination. The Board may adopt and implement regulations governing the preparation and administration of certification examinations.

(v) Recommendation of Certification. The Board may recommend certification to the Supreme Court. The Supreme Court shall review the Board's recommendation and enter an appropriate order.

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(vi) Denial of Certification. The Board may deny certification. If the Board denies certification, it shall notify an applicant in writing of the basis for denial of certification and inform the applicant of the appeal process.

(vii) Continuing Education. The Board may adopt and implement regulations for continuing education.

(viii) Grievances and Discipline. The Board shall adopt and implement procedures to review any allegation that a professional guardian has violated an applicable statute, fiduciary duty, standard of practice, rule, or regulation. The Board may impose sanctions upon a finding of violation. Sanctions may include decertification or lesser remedies or actions designed to ensure compliance with duties, standards, and requirements for professional guardians.

(ix) Investigation. The Board may investigate to determine whether an applicant for certification meets the certification requirements established in this rule. The Board may also investigate to determine whether a professional guardian has violated the duty, standard of practice, rule, regulation, or statute governing the conduct of professional guardians.

(x) Authority to Conduct Hearings. The Board may adopt regulations pertaining to the orderly conduct of hearings.

a) Subpoenas. The Chair of the Board, Hearing Officer, or designated attorney shall have the power to issue subpoenas.

b) Orders. The Chair or Hearing Officer may make such pre-hearing or other orders as are necessary for the orderly conduct of any hearing.

c) Enforcement. The Board may refer a Subpoena or order to the Supreme Court for enforcement.

(xi) Confidentiality. Information in the Board's possession shall be disclosed upon request, except that the following information shall not be disclosed without a court order:

a) Personal information, including, but not limited to, home address, financial information, medical information, or Social Security number;

b) Records required by law, regulation, or court order to be confidential;

c) Records of reviews or investigations by the Board which did not result in sanctions;

d) Professional guardian examination questions, answers, or scores;

e) Records of investigations shall remain confidential except for documents showing the results of the investigation where there has been an appeal; and

f) Records of disciplinary actions shall remain confidential except all formal complaints and the process after filing the formal complaint shall be public.

(xii) Meetings. The Board shall hold meetings as determined necessary by the chair. Meetings of the Board will be open to the public except for executive sessions of the Board and review panel and disciplinary meetings prior to filing of a formal complaint.

(xiii) Fees. The Board shall establish and collect fees in such amounts as are necessary to carry out the duties and responsibilities of the Board.

(xiv) Immunity from Liability. No cause of action against the Board, its members, or agents, including hearing officers appointed by the Board or its Chair, shall accrue in

favor of a professional guardian or any other person arising from any act taken pursuant to this rule, provided that the Board or individual acted in good faith. The burden of proving that the acts were not taken in good faith shall be on the party asserting it.

(d) - (m) [Unchanged.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 03-07-046
RULES OF COURT
STATE SUPREME COURT

[March 12, 2003]

IN THE MATTER OF THE ADOPTION) ORDER
 OF THE AMENDMENT TO APR 6) NO. 25700-A-764

The Washington State Bar Association having recommended the adoption of the proposed amendment to APR 6, and the Court having determined that the proposed amendment will aid in the prompt and orderly administration of justice and further determined that an emergency exists which necessitates an early adoption;

Now, therefore, it is hereby

ORDERED:

(a) That the amendment as attached hereto is adopted.

(b) That pursuant to the emergency provisions of GR 9(i), the amendment will be published expeditiously and become effective upon publication.

DATED at Olympia, Washington this 12th day of March 2003.

	Alexander, C.J.
_____ Johnson, J.	_____ Ireland, J.
_____ Madsen, J.	_____ Chambers, J.
_____ Bridge, J.	_____ Owens, J.
_____ Sanders, J.	_____ Mary E. Fairhurst

SUGGESTED AMENDMENT
ADMISSION TO PRACTICE RULES (APR)
APR 6. LAW CLERK PROGRAM

(a) **Applicants.** Every applicant for enrollment in the law clerk program shall:

(1) Be of good moral character;

(2) Present satisfactory proof of having been granted a bachelors degree, other than a bachelor of laws, by a college or university offering such a degree on the basis of a 4-year course of study;

(3) Obtain regular, full-time employment in the State of Washington as a law clerk with (i) a judge of a court of gen-

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eral, limited, or appellate jurisdiction, or (ii) a lawyer or firm of lawyers licensed to practice in this state and actively engaged in the practice of law;

(4) Submit on forms provided by the Bar Association (i) an application for admission to the law clerk program, (ii) the tutor's statement required by subsection (b)(3) of this rule, and (iii) an application fee;

(5) Appear for an interview, provide any additional information or proof, and cooperate in any investigation, as may be deemed relevant by the Board of Governors; and

(6) Pay such fees as may be set by the Board of Governors with the approval of the Supreme Court.

(b) **Tutors.** A lawyer or judge may act as a tutor for only one law clerk at a time. To be eligible to act as a tutor in the law clerk program, a lawyer or judge shall:

(1) Be an active member in good standing of the Bar Association, or be a judicial member who is currently elected or appointed to an elected position, provided that if a disciplinary sanction has been imposed upon the lawyer or judge within the 5 years immediately preceding approval of the law clerk's application for enrollment, the Board of Governors shall have the discretion to accept or reject the lawyer or judge as tutor;

(2) Have been actively and continuously engaged in the practice of law or have held the required judicial position for at least 10 years immediately preceding the filing of the law clerk's application for enrollment; this may be a combination of active practice and judicial experience; and

(3) Provide a tutor's statement certifying to the law clerk's employment and to the tutor's eligibility, and agreeing to instruct and examine the law clerk in the curriculum prescribed by the Law Clerk Committee with the approval of the Board of Governors.

(c) **Length of Study.** [No change].

(d) **Course of Study.** [No change].

(e) **Examination.** [No change].

(f) **Certificates.** [No change].

(g) **Termination.** [No change].

(h) **Advanced Standing.** [No change].

(i) **Effective Date.** [No change].

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 03-07-047
RULES OF COURT
STATE SUPREME COURT
[March 12, 2003]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENT TO CrRLJ 3.2(o)) NO. 25700-A-765

The District and Municipal Court Judges' Association having recommended the adoption of the proposed amendment to CrRLJ 3.2(o), and the Court having determined that the proposed amendment will aid in the prompt and orderly administration of justice and further determined that an emergency exists which necessitates an early adoption;

Now, therefore, it is hereby

ORDERED:

(a) That the amendment as attached hereto is adopted.

(b) That pursuant to the emergency provisions of GR 9(i), the amendment will be published expeditiously and become effective upon publication.

DATED at Olympia, Washington this 12th day of March 2003.

	Alexander, C.J.
_____ Johnson, J.	_____ Ireland, J.
_____ Madsen, J.	_____ Chambers, J.
_____ Bridge, J.	_____ Owens, J.
_____ Sanders, J.	_____ Mary E. Fairhurst

Suggested Changes

CrRLJ 3.2(o)

RELEASE OF ACCUSED

(a) - (l) [Unchanged.]

(o) Bail in Criminal Offense Cases—Mandatory Appearance.

(1) When required to reasonably assure appearance in court, bail for a person arrested for the following criminal offenses listed in this rule or comparable ordinances shall be the amount listed in this rule. In an individual case and after hearing the court for good cause recited in a written order may set a different bail amount.

(2) A court may adopt a local rule requiring that persons subjected to custodial arrest for a certain class of offenses be held until they have appeared before a judge.

(3) Forfeiture of bail shall not constitute a final disposition for a mandatory offense or comparable ordinance without a written order of the court showing the reasons. The order may be a simple docket entry. If the court allows forfeiture of bail for a mandatory offense, it may accept bail in an amount no less than that set forth in these rules as full payment including all statutory assessments.

	Bail
1. Driving while under the influence; physical control (RCW 46.61.502; 46.52.100; 46.61.504)	\$500
2. Driving while under the influence—nonhighway vehicle or snowmobile (RCW 46.09.120(2))	\$500
3. Operating nonhighway vehicle or snowmobile so as to endanger human life, etc. (RCW 46.09.130; 46.10.130)	\$500
4. No valid driver's license (without identification) (RCW 46.20.021)	\$475 <u>250</u>

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- 5. Unlawful possession or use of a driver's license (RCW 46.20.336) \$100
- 6. Driving while license suspended or revoked in the first(,) and second(, and third)) degrees (RCW 46.20.342) \$500
- 7. Driving while license suspended or revoked in the third degree (RCW 46.20.342) \$250
- 78. Violating occupational license restrictions (RCW 46.20.410) \$200
- 89. Financial responsibility suspension (RCW 46.29.610, .620) \$100
- 910. Transporting dangerous articles (RCW 46.48.175) \$500
- ~~1011.~~ Unattended hit and run (RCW 46.52.010) \$250
- ~~112.~~ Attended hit and run (RCW 46.52.020) \$500
- ~~1213.~~ Reports of repairs, concealing evidence (RCW 46.52.090) \$500
- ~~1314.~~ Confidentiality of driving records (RCW 46.52.130) \$500
- ~~1415.~~ Failure to obey police officer, flagger, or fire fighter (RCW 46.61.015) \$250
- ~~1516.~~ Failure to cooperate with or give information to police officer (RCW 46.61.020) \$100
- ~~1617.~~ Failure to stop and give information (RCW 46.61.022) \$100
- ~~1718.~~ Reckless driving (RCW 46.61.500) \$500
- ~~1819.~~ Racing (RCW 46.61.530) \$500
- ~~1920.~~ Leaving children unattended (RCW 46.61.685) \$250
- 20. ~~Failure to respond or appear (RCW 46.64.020)~~ \$250
- 21. Unfair motor vehicle business practices (RCW 46.70.170) \$250
- 22. Unlawful operation of for hire vehicles (RCW 46.72.100) \$250
- 23. Motor vehicle wreckers (RCW 46.80.170) \$500
- 24. Driving training schools (RCW 46.82.390) \$250
- 25. First Degree Negligent Driving (RCW 46.61.525) \$250

(n)—(s) [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 in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 03-07-048
RULES OF COURT
STATE SUPREME COURT

[March 12, 2003]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENT TO APR 19(d)) NO. 25700-A-766

The Washington State Bar Association having recommended the adoption of the proposed amendment to APR 19(d), and the Court having determined that the proposed amendment will aid in the prompt and orderly administration of justice and further determined that an emergency exists which necessitates an early adoption;

Now, therefore, it is hereby

ORDERED:

(a) That the amendment as attached hereto is adopted.

(b) That pursuant to the emergency provisions of GR 9(i), the amendment will be published expeditiously and become effective upon publication.

DATED at Olympia, Washington this 12th day of March 2003.

Alexander, C.J.

Johnson, J.

Ireland, J.

Madsen, J.

Chambers, J.

Bridge, J.

Owens, J.

Sanders, J.

Mary E. Fairhurst

SUGGESTED AMENDMENT
ADMISSION TO PRACTICE RULES (APR)
APR 19. LAWYER SERVICES DEPARTMENT

(a) Purpose. [No change.]

(b) Lawyers' Assistance Program (LAP). [No change.]

(c) Fee Arbitration Program. [Reserved.] [No change.]

(d) Law Office Management Assistance Program.

(1) Authorization. The Washington State Bar Association is authorized to create a program to help improve the quality of legal services by assisting lawyers to manage better their offices and improve the professional delivery of legal services.

(2) Confidentiality. Information obtained by staff or agents of the Law Office Management Assistance Program shall be confidential unless:

(i) the assisted lawyer consents to disclosure;

(ii) disclosure, based upon reasonable belief, is necessary to prevent the assisted lawyer from committing a crime; or

(iii) pursuant to court order.

~~(3) Exoneration From Liability.~~

~~(i) Bar Association and its Agents. No cause of action shall accrue in favor of any person, arising from any action or proceeding pursuant to these rules, against the Bar Associa-~~

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~~tion, or its officers or agents (including but not limited to its staff, members of the Board of Governors, or any individual acting under authority of these rules) provided only that the Bar Association or individual shall have acted in good faith. The burden of proving bad faith in this context shall be upon the person asserting it. The Bar Association shall provide defense to any action brought against an officer or agent of the Bar Association for actions taken in good faith under these rules and shall bear the costs of that defense and shall indemnify the officer or agent against any judgement taken therein.~~

~~(ii) Other persons. Communications to the Bar Association, Board of Governors, staff, or any other individual acting under the authority of these rules are subject to the provisions of APR 19 (d)(2) supra and the Rules of Professional Conduct.~~

(e) Ethics Program. [Reserved.] [No change.]

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

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 03-07-060
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE CENTER

[Memorandum—March 12, 2003]

A regular meeting of the Washington State Convention and Trade Center board of directors will be held on **Tuesday, March 18, 2003, at 2:00 p.m.** in Room 303, of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding this meeting, please call (206) 694-5000.

WSR 03-07-061
NOTICE OF PUBLIC MEETINGS
LAKE WASHINGTON TECHNICAL COLLEGE

[Memorandum—March 11, 2003]

Pursuant to RCW 42.30.075, the following is the amended date when the Lake Washington Technical College board of trustees is scheduled to hold regular meetings during 2003.

Instead of holding a meeting on April 7, 2003, the board of trustees will meet on Monday, April 14, 2003.

Appropriate advertising of this meeting change will take place ten days prior to the meeting. The study session will begin at 6 p.m. in Room W302E at the college; the regular meeting agenda will begin at 7 p.m. in Room W305A at the college located at 11605 132nd Avenue N.E., Kirkland, WA 98034.

WSR 03-07-069

NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY

[Memorandum—March 11, 2003]

The Eastern Washington University board of trustees' meeting schedule for 2003 (adopted at the October 18, 2002, meeting of the board), was REVISED at the March 7, 2003, meeting of the board. The schedule is as follows:

Friday, January 24	12:00 p.m.	Pence Union Building Banquet Room 267
Friday, March 7	12:00 p.m.	Riverpoint Campus SIRTI Room 432
Friday, May 23	9:00 a.m.	Pence Union Building Banquet Room 267
Monday, June 30	12:00 p.m.	Pence Union Building Banquet Room 267
Friday, August 22	9:00 a.m.	Spokane Center Second Floor Mall
Friday, October 17	12:00 p.m.	Pence Union Building Banquet Room 267
Friday, December 5	9:00 a.m.	Pence Union Building Banquet Room 267

Executive session will be held from approximately 12:00 - 1:00 p.m. The open public meeting will reconvene following the executive session.

If you have questions concerning this schedule, please contact Connie Gross at (509) 359-6598.

WSR 03-07-071
NOTICE OF PUBLIC MEETINGS
HORSE RACING COMMISSION

[Memorandum—March 14, 2003]

MEETING SCHEDULE TIME CHANGE

The Washington Horse Racing Commission had changed the time of the meetings previously published in the Washington State Register in January 2003.

The following will be the schedule for the Washington Horse Racing Commission meetings:

DATE:	TOPIC:	LOCATION:
Thursday April 10, 2003		10:30 a.m. Auburn City Council Chambers 25 West Main Auburn, WA 98001
Thursday May 8, 2003		10:30 a.m. Auburn City Council Chambers 25 West Main Auburn, WA 98001
Thursday June 12, 2003		10:30 a.m. Auburn City Council Chambers 25 West Main Auburn, WA 98001
Thursday July 10, 2003	Fall/Winter Race Meets	10:30 a.m. Auburn City Council Chambers 25 West Main Auburn, WA 98001

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Thursday
August 14, 2003
10:30 a.m.
Auburn City Council Chambers
25 West Main
Auburn, WA 98001

Thursday
September 11, 2003
10:30 a.m.
Auburn City Council Chambers
25 West Main
Auburn, WA 98001

Thursday
October 9, 2003
10:30 a.m.
Auburn City Council Chambers
25 West Main
Auburn, WA 98001

Thursday
November 13, 2003
10:30 a.m.
PepperTree Auburn Inn
401 8th Street S.W.
Auburn, WA 98001

Thursday
December 11, 2003
2004 Dates
10:30 a.m.
Auburn City Council Chambers
25 West Main
Auburn, WA 98001

ings may be cancelled based on committee member schedules and availability.

WSR 03-07-084
ATTORNEY GENERAL'S OFFICE

[Filed March 18, 2003, 3:45 p.m.]

NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION
WASHINGTON ATTORNEY GENERAL

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by April 9, 2003. This is not the due date by which comments must be received. However, if you do not notify the Attorney General's Office of your interest in commenting on an opinion request by this date, the opinion may be issued before your comments have been received. You may notify the Attorney General's Office of your intention to comment by calling (360) 664-3027, or by writing to the Solicitor General, Office of the Attorney General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested, information about the Attorney General's Opinion process, information on how to submit your comments, and a due date by which your comments must be received to ensure that they are fully considered.

WSR 03-07-073

NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF LICENSING

(Driver's Training School Advisory Committee)
[Memorandum—March 18, 2003]

The Department of Licensing is responsible for the administration and enforcement of the law pertaining to driver training schools as set forth in chapter 46.82 RCW. The director shall be assisted in the duties and responsibilities of this chapter by the Driver's Training School Advisory Committee. The Driver's Training School Advisory Committee shall meet at least semi-annually and shall have additional meetings as may be called by the director. The following is a schedule of future meetings:

March 27, 2003	3:00 p.m. - 5:00 p.m.	Washington State Traffic Safety Commission
April 24, 2003	10:00 a.m. - 12:00 p.m.	Location to be announced
May 22, 2003	10:00 a.m. - 12:00 p.m.	Location to be announced
June 26, 2003	10:00 a.m. - 12:00 p.m.	Location to be announced
July 24, 2003	10:00 a.m. - 12:00 p.m.	Location to be announced
August 21, 2003	10:00 a.m. - 12:00 p.m.	Location to be announced
September 25, 2003	10:00 a.m. - 12:00 p.m.	Location to be announced
October 23, 2003	10:00 a.m. - 12:00 p.m.	Location to be announced
November 20, 2003	10:00 a.m. - 12:00 p.m.	Location to be announced

Meetings will be held at the Highways-Licenses Building, unless otherwise noted. Monthly meeting locations are subject to change and will be listed on the DOL Traffic Safety Education website at www.dol.wa.gov/drivers. Meet-

The Attorney General's Office seeks public input on the following opinion request(s):

**03-03-01 Request by Mary Margaret Haugen
Chair, Municipal Research Council**

**Does the military leave statute, RCW 38.40.060,
apply to city and county elected officials?**

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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 #
3- 20-100	REP-P	03-05-101	16-228-1266	NEW	03-05-033	16-239-0806	NEW-P	03-07-082
3- 20-200	NEW-P	03-05-101	16-229-010	AMD-P	03-05-075	16-239-0807	NEW-P	03-07-082
3- 20-300	NEW-P	03-05-101	16-229-200	AMD-P	03-05-075	16-239-0808	NEW-P	03-07-082
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16-157-230	AMD	03-03-044	16-238-100	REP-P	03-07-082	16-239-0903	NEW-P	03-07-082
16-157-240	AMD	03-03-044	16-238-110	REP-P	03-07-082	16-239-0904	NEW-P	03-07-082
16-157-245	NEW	03-03-044	16-239-010	NEW-P	03-07-082	16-239-0905	NEW-P	03-07-082
16-157-250	AMD	03-03-044	16-239-020	NEW-P	03-07-082	16-239-0906	NEW-P	03-07-082
16-157-255	AMD	03-03-044	16-239-030	NEW-P	03-07-082	16-239-0907	NEW-P	03-07-082
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16-157-280	REP	03-03-044	16-239-060	NEW-P	03-07-082	16-239-0910	NEW-P	03-07-082
16-157-290	AMD	03-03-044	16-239-061	NEW-P	03-07-082	16-239-0911	NEW-P	03-07-082
16-160-010	AMD	03-03-045	16-239-062	NEW-P	03-07-082	16-239-0912	NEW-P	03-07-082
16-160-020	AMD	03-03-045	16-239-063	NEW-P	03-07-082	16-239-100	NEW-P	03-07-082
16-160-025	REP	03-03-045	16-239-064	NEW-P	03-07-082	16-239-1010	NEW-P	03-07-082
16-160-035	AMD	03-03-045	16-239-065	NEW-P	03-07-082	16-239-1020	NEW-P	03-07-082
16-160-060	AMD	03-03-045	16-239-070	NEW-P	03-07-082	16-239-1030	NEW-P	03-07-082
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16-200-7403	NEW	03-02-100	16-239-074	NEW-P	03-07-082	16-303-250	AMD-P	03-03-130
16-200-7404	NEW	03-02-100	16-239-075	NEW-P	03-07-082	16-303-300	AMD-P	03-03-130
16-200-7405	NEW	03-02-100	16-239-076	NEW-P	03-07-082	16-303-310	AMD-P	03-03-130
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16-228-1266	NEW-P	03-02-098	16-239-0805	NEW-P	03-07-082	16-321-030	REP-X	03-03-124

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16-321-040	REP-X	03-03-124	118- 66-010	NEW-P	03-04-108	132F-121-010	NEW-P	03-06-067
16-321-050	REP-X	03-03-124	118- 66-020	NEW-P	03-04-108	132F-121-020	NEW-P	03-06-067
16-321-060	REP-X	03-03-124	118- 66-030	NEW-P	03-04-108	132F-121-030	NEW-P	03-06-067
16-321-070	REP-X	03-03-124	118- 66-040	NEW-P	03-04-108	132F-121-040	NEW-P	03-06-067
16-321-080	REP-X	03-03-124	118- 66-042	NEW-P	03-04-108	132F-121-050	NEW-P	03-06-067
16-321-090	REP-X	03-03-124	118- 66-045	NEW-P	03-04-108	132F-121-060	NEW-P	03-06-067
16-321-100	REP-X	03-03-124	118- 66-050	NEW-P	03-04-108	132F-121-070	NEW-P	03-06-067
16-321-110	REP-X	03-03-124	118- 66-080	NEW-P	03-04-108	132F-121-080	NEW-P	03-06-067
16-321-120	REP-X	03-03-124	118- 66-081	NEW-P	03-04-108	132F-121-090	NEW-P	03-06-067
16-328-008	AMD-P	03-07-090	118- 66-085	NEW-P	03-04-108	132F-121-100	NEW-P	03-06-067
16-328-010	PREP	03-03-121	118- 66-090	NEW-P	03-04-108	132F-121-110	NEW-P	03-06-067
16-328-010	REP-P	03-07-090	132A	PREP	03-04-091	132F-121-120	NEW-P	03-06-067
16-328-011	PREP	03-03-121	132F- 01-010	AMD-P	03-06-067	132F-121-130	NEW-P	03-06-067
16-328-011	AMD-P	03-07-090	132F- 01-020	REP-P	03-06-067	132F-121-140	NEW-P	03-06-067
16-333-010	AMD-P	03-07-089	132F-104-010	AMD-P	03-06-067	132F-121-150	NEW-P	03-06-067
16-333-040	PREP	03-03-120	132F-104-020	AMD-P	03-06-067	132F-121-160	NEW-P	03-06-067
16-333-040	REP-P	03-07-089	132F-104-030	REP-P	03-06-067	132F-121-170	NEW-P	03-06-067
16-333-041	PREP	03-03-120	132F-104-801	REP-P	03-06-067	132F-121-180	NEW-P	03-06-067
16-333-041	AMD-P	03-07-089	132F-104-810	AMD-P	03-06-067	132F-121-190	NEW-P	03-06-067
16-400-040	AMD-P	03-07-081	132F-104-811	REP-P	03-06-067	132F-121-200	NEW-P	03-06-067
16-400-100	AMD-P	03-07-081	132F-104-812	REP-P	03-06-067	132F-121-210	NEW-P	03-06-067
16-400-210	AMD-P	03-07-081	132F-104-813	REP-P	03-06-067	132F-121-220	NEW-P	03-06-067
16-400-215	NEW-P	03-07-081	132F-104-814	REP-P	03-06-067	132F-121-230	NEW-P	03-06-067
16-401-021	AMD-P	03-07-091	132F-104-815	REP-P	03-06-067	132F-121-240	NEW-P	03-06-067
16-401-023	AMD-P	03-07-091	132F-104-816	REP-P	03-06-067	132F-121-250	NEW-P	03-06-067
16-401-026	REP-P	03-07-091	132F-104-817	REP-P	03-06-067	132F-121-260	NEW-P	03-06-067
16-401-027	AMD-P	03-07-091	132F-104-818	REP-P	03-06-067	132H-116	PREP	03-04-074
16-401-031	REP-P	03-07-091	132F-104-819	REP-P	03-06-067	132H-120	PREP	03-04-075
16-401-032	AMD-P	03-07-091	132F-108	AMD-P	03-06-067	132H-152-135	PREP	03-04-073
16-401-041	AMD-P	03-07-091	132F-108-020	AMD-P	03-06-067	132X- 60-065	AMD	03-03-089
16-401-060	NEW-P	03-06-102	132F-108-050	AMD-P	03-06-067	136- 60-010	AMD	03-05-009
16-465-001	REP	03-05-079	132F-108-070	AMD-P	03-06-067	136- 60-020	AMD	03-05-009
16-465-060	REP	03-05-079	132F-108-080	AMD-P	03-06-067	136- 60-030	AMD	03-05-009
16-470-905	AMD-P	03-07-092	132F-108-100	AMD-P	03-06-067	136- 60-040	AMD	03-05-009
16-470-911	REP-P	03-07-092	132F-108-120	AMD-P	03-06-067	136- 60-050	AMD	03-05-009
16-470-912	AMD-P	03-07-092	132F-108-130	AMD-P	03-06-067	136- 60-060	AMD	03-05-009
16-470-916	REP-P	03-07-092	132F-108-140	AMD-P	03-06-067	136-150-023	AMD	03-05-010
16-470-917	AMD-P	03-07-092	132F-120	REP-P	03-06-067	136-150-024	REP	03-05-010
16-470-921	AMD-P	03-07-092	132F-120-020	REP-P	03-06-067	136-150-030	AMD	03-05-010
16-536-040	AMD-C	03-06-101	132F-120-030	REP-P	03-06-067	136-150-040	AMD	03-05-010
16-657	PREP	03-03-122	132F-120-040	REP-P	03-06-067	136-150-050	NEW	03-05-010
16-659	PREP	03-03-122	132F-120-041	REP-P	03-06-067	136-150-060	NEW	03-05-010
16-662-100	AMD-X	03-03-123	132F-120-042	REP-P	03-06-067	136-161-080	AMD-P	03-05-008
16-662-105	AMD-X	03-03-123	132F-120-043	REP-P	03-06-067	136-163-030	AMD	03-05-011
16-662-110	AMD-X	03-03-123	132F-120-050	REP-P	03-06-067	139- 05-210	AMD	03-07-099
16-662-115	AMD-X	03-03-123	132F-120-060	REP-P	03-06-067	139- 05-820	AMD	03-07-099
16-750-005	AMD	03-04-001	132F-120-061	REP-P	03-06-067	139- 05-915	AMD-C	03-03-091
16-750-011	AMD	03-04-001	132F-120-070	REP-P	03-06-067	139- 05-915	AMD	03-07-100
16-750-015	AMD	03-04-001	132F-120-080	REP-P	03-06-067	139- 10-215	PREP	03-05-090
36- 12-170	AMD-W	03-06-072	132F-120-090	REP-P	03-06-067	139- 30-015	AMD	03-07-098
36- 14-120	NEW-W	03-06-072	132F-120-100	REP-P	03-06-067	139- 35-015	AMD	03-07-098
82- 50-021	AMD-X	03-07-083	132F-120-110	REP-P	03-06-067	173- 06-120	AMD-X	03-04-081
98- 70-010	PREP	03-04-077	132F-120-120	REP-P	03-06-067	173- 26	PREP	03-03-019
118- 65-010	REP-P	03-04-108	132F-120-130	REP-P	03-06-067	173-157-010	NEW	03-03-081
118- 65-020	REP-P	03-04-108	132F-120-140	REP-P	03-06-067	173-157-020	NEW	03-03-081
118- 65-030	REP-P	03-04-108	132F-120-150	REP-P	03-06-067	173-157-030	NEW	03-03-081
118- 65-040	REP-P	03-04-108	132F-120-160	REP-P	03-06-067	173-157-040	NEW	03-03-081
118- 65-050	REP-P	03-04-108	132F-120-170	REP-P	03-06-067	173-157-050	NEW	03-03-081
118- 65-060	REP-P	03-04-108	132F-120-180	REP-P	03-06-067	173-157-100	NEW	03-03-081
118- 65-070	REP-P	03-04-108	132F-120-190	REP-P	03-06-067	173-157-110	NEW	03-03-081
118- 65-081	REP-P	03-04-108	132F-120-200	REP-P	03-06-067	173-157-120	NEW	03-03-081
118- 65-090	REP-P	03-04-108	132F-120-210	REP-P	03-06-067	173-157-130	NEW	03-03-081

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
173-157-140	NEW	03-03-081	173-350-020	NEW	03-03-043	180-90-105	AMD	03-04-053
173-157-150	NEW	03-03-081	173-350-025	NEW	03-03-043	180-90-110	REP	03-04-053
173-157-160	NEW	03-03-081	173-350-030	NEW	03-03-043	180-90-112	AMD	03-04-053
173-157-170	NEW	03-03-081	173-350-040	NEW	03-03-043	180-90-115	REP	03-04-053
173-157-180	NEW	03-03-081	173-350-100	NEW	03-03-043	180-90-119	REP	03-04-053
173-157-200	NEW	03-03-081	173-350-200	NEW	03-03-043	180-90-120	REP	03-04-053
173-157-210	NEW	03-03-081	173-350-210	NEW	03-03-043	180-90-123	REP	03-04-053
173-157-220	NEW	03-03-081	173-350-220	NEW	03-03-043	180-90-125	REP	03-04-053
173-157-230	NEW	03-03-081	173-350-230	NEW	03-03-043	180-90-130	AMD	03-04-053
173-170-010	AMD	03-07-104	173-350-240	NEW	03-03-043	180-90-133	REP	03-04-053
173-170-020	AMD	03-07-104	173-350-300	NEW	03-03-043	180-90-135	REP	03-04-053
173-170-040	AMD	03-07-104	173-350-310	NEW	03-03-043	180-90-137	REP	03-04-053
173-170-050	AMD	03-07-104	173-350-320	NEW	03-03-043	180-90-141	AMD	03-04-053
173-170-070	AMD	03-07-104	173-350-330	NEW	03-03-043	180-90-160	AMD	03-04-053
173-170-080	AMD	03-07-104	173-350-350	NEW	03-03-043	182-25-030	AMD-P	03-05-094
173-170-090	AMD	03-07-104	173-350-360	NEW	03-03-043	182-25-035	NEW-P	03-05-094
173-170-100	AMD	03-07-104	173-350-400	NEW	03-03-043	192-16-033	REP	03-06-038
173-183-820	AMD-X	03-06-036	173-350-410	NEW	03-03-043	192-16-036	REP	03-06-038
173-183-830	AMD-X	03-06-036	173-350-490	NEW	03-03-043	192-16-040	REP	03-06-038
173-183-850	AMD-X	03-06-036	173-350-500	NEW	03-03-043	192-16-042	REP	03-06-038
173-183-860	AMD-X	03-06-036	173-350-600	NEW	03-03-043	192-16-045	REP	03-06-038
173-201A	AMD-S	03-04-082	173-350-600	NEW	03-04-103	192-16-047	REP	03-06-038
173-303-045	AMD	03-07-049	173-350-700	NEW	03-03-043	192-240-010	NEW	03-06-038
173-303-070	AMD	03-07-049	173-350-710	NEW	03-03-043	192-240-015	NEW	03-06-038
173-303-071	AMD-E	03-03-047	173-350-715	NEW	03-03-043	192-240-020	NEW	03-06-038
173-303-071	AMD	03-07-049	173-350-900	NEW	03-03-043	192-240-025	NEW	03-06-038
173-303-100	AMD	03-07-049	173-350-990	NEW	03-03-043	192-240-030	NEW	03-06-038
173-303-110	AMD	03-07-049	180-10-001	REP-W	03-03-060	192-240-035	NEW	03-06-038
173-303-140	AMD	03-07-049	180-10-003	REP-W	03-03-060	192-240-040	NEW	03-06-038
173-303-170	AMD	03-07-049	180-10-005	REP-W	03-03-060	192-240-045	NEW	03-06-038
173-303-200	AMD	03-07-049	180-10-007	REP-W	03-03-060	196-30	PREP	03-03-111
173-303-283	AMD	03-07-049	180-10-010	REP-W	03-03-060	197-11-070	AMD-P	03-03-082
173-303-380	AMD	03-07-049	180-10-015	REP-W	03-03-060	197-11-250	AMD-P	03-03-082
173-303-390	AMD	03-07-049	180-10-020	REP-W	03-03-060	197-11-310	AMD-P	03-03-082
173-303-400	AMD	03-07-049	180-10-025	REP-W	03-03-060	197-11-800	AMD-P	03-03-082
173-303-500	AMD	03-07-049	180-10-030	REP-W	03-03-060	197-11-820	AMD-P	03-03-082
173-303-505	AMD	03-07-049	180-10-035	REP-W	03-03-060	197-11-835	AMD-P	03-03-082
173-303-506	AMD	03-07-049	180-10-040	REP-W	03-03-060	197-11-850	AMD-P	03-03-082
173-303-510	AMD	03-07-049	180-10-045	REP-W	03-03-060	197-11-855	AMD-P	03-03-082
173-303-520	AMD	03-07-049	180-38-065	AMD-W	03-03-062	197-11-902	AMD-P	03-03-082
173-303-522	AMD	03-07-049	180-50-315	AMD	03-04-054	197-11-904	AMD-P	03-03-082
173-303-525	AMD	03-07-049	180-51-063	PREP	03-04-110	197-11-908	AMD-P	03-03-082
173-303-578	AMD	03-07-049	180-55-032	NEW-W	03-03-061	212-12-200	NEW	03-06-063
173-303-620	AMD	03-07-049	180-55-034	PREP	03-04-112	212-12-210	NEW	03-06-063
173-303-645	AMD	03-07-049	180-55-150	PREP	03-04-111	212-12-220	NEW	03-06-063
173-303-646	AMD	03-07-049	180-57-050	AMD	03-04-055	212-12-230	NEW	03-06-063
173-303-690	AMD	03-07-049	180-57-055	AMD	03-04-055	212-12-240	NEW	03-06-063
173-303-691	AMD	03-07-049	180-57-070	AMD	03-04-055	212-12-250	NEW	03-06-063
173-303-692	AMD	03-07-049	180-78A-505	AMD	03-04-025	212-12-260	NEW	03-06-063
173-303-806	AMD	03-07-049	180-78A-535	AMD	03-04-024	212-12-270	NEW	03-06-063
173-303-830	AMD	03-07-049	180-78A-700	NEW	03-04-026	212-12-280	NEW	03-06-063
173-314-010	REP-X	03-05-095	180-79A-117	PREP	03-07-004	212-12-290	NEW	03-06-063
173-314-100	REP-X	03-05-095	180-79A-150	PREP	03-04-109	212-12-300	NEW	03-06-063
173-314-200	REP-X	03-05-095	180-79A-155	AMD	03-04-022	212-12-310	NEW	03-06-063
173-314-210	REP-X	03-05-095	180-79A-231	AMD-P	03-04-019	212-12-320	NEW	03-06-063
173-314-220	REP-X	03-05-095	180-82-110	AMD	03-04-023	212-12-330	NEW	03-06-063
173-314-300	REP-X	03-05-095	180-82-204	PREP	03-04-020	212-12-340	NEW	03-06-063
173-314-310	REP-X	03-05-095	180-82-204	AMD-E	03-04-027	212-12-350	NEW	03-06-063
173-314-320	REP-X	03-05-095	180-82A-204	PREP	03-04-020	212-12-360	NEW	03-06-063
173-314-330	REP-X	03-05-095	180-82A-204	AMD-E	03-04-028	212-12-370	NEW	03-06-063
173-314-340	REP-X	03-05-095	180-82A-206	PREP	03-04-021	212-12-380	NEW	03-06-063
173-350-010	NEW	03-03-043	180-82A-215	PREP	03-04-021	212-12-390	NEW	03-06-063

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212- 12-410	NEW	03-06-063	220- 55-001	AMD-P	03-06-079	220-100-095	AMD-P	03-06-080
212- 12-420	NEW-W	03-06-071	220- 55-060	REP-P	03-06-079	222- 21-010	AMD	03-06-039
220- 12-020	AMD	03-05-057	220- 56-105	AMD	03-05-057	222- 21-030	AMD	03-06-039
220- 16-290	NEW	03-05-061	220- 56-129	NEW	03-05-057	222- 21-035	AMD	03-06-039
220- 20-080	NEW	03-05-059	220- 56-175	AMD	03-05-057	222- 21-040	AMD	03-06-039
220- 32-05100A	NEW-E	03-07-044	220- 56-230	AMD	03-05-057	222- 21-045	AMD	03-06-039
220- 32-05100A	REP-E	03-07-044	220- 56-23000A	NEW-E	03-07-032	222- 21-050	AMD	03-06-039
220- 32-05100Z	REP-E	03-07-044	220- 56-23000A	REP-E	03-07-032	230- 08-017	AMD	03-05-089
220- 33-01000A	NEW-E	03-05-036	220- 56-235	AMD	03-05-057	230- 20-059	AMD-P	03-05-088
220- 33-01000A	REP-E	03-05-036	220- 56-23500Q	NEW-E	03-07-032	230- 40-550	AMD-P	03-05-087
220- 33-01000A	REP-E	03-06-007	220- 56-23500Q	REP-E	03-07-032	230- 40-625	AMD-P	03-05-087
220- 33-01000B	NEW-E	03-06-007	220- 56-250	AMD	03-05-057	230- 40-815	AMD-P	03-05-087
220- 33-01000B	REP-E	03-06-007	220- 56-25000E	NEW-E	03-07-032	230- 40-825	AMD-P	03-05-087
220- 33-01000Y	REP-E	03-04-033	220- 56-25000E	REP-E	03-07-032	230- 40-860	AMD-P	03-05-087
220- 33-01000Z	NEW-E	03-04-033	220- 56-255	AMD	03-05-057	230- 40-875	AMD-P	03-05-087
220- 33-01000Z	REP-E	03-04-033	220- 56-265	AMD	03-05-057	230- 40-895	AMD-P	03-05-087
220- 33-01000Z	REP-E	03-04-078	220- 56-27000N	REP-E	03-05-025	232- 12-045	NEW-P	03-06-104
220- 33-04000S	REP-E	03-07-015	220- 56-27000P	NEW-E	03-05-025	232- 12-051	AMD-P	03-06-104
220- 33-04000T	NEW-E	03-07-015	220- 56-27000P	REP-E	03-05-025	232- 12-054	AMD-P	03-06-104
220- 33-04000T	REP-E	03-07-015	220- 56-320	AMD	03-05-057	232- 12-068	AMD-P	03-06-106
220- 33-060	AMD	03-05-062	220- 56-325	AMD	03-05-057	232- 12-106	AMD	03-03-016
220- 36-03001	AMD	03-05-062	220- 56-33000R	REP-E	03-05-026	232- 12-181	AMD	03-03-016
220- 36-03001A	NEW-E	03-05-002	220- 56-33000S	NEW-E	03-05-005	232- 12-289	NEW-P	03-02-103
220- 36-03001A	REP-E	03-05-002	220- 56-33000S	REP-E	03-06-020	232- 12-289	NEW	03-06-110
220- 40-030	AMD	03-05-062	220- 56-33000T	NEW-E	03-05-026	232- 12-828	AMD-P	03-06-079
220- 44-050	AMD-P	03-02-105	220- 56-33000T	REP-E	03-07-003	232- 19-010	REP-P	03-06-080
220- 44-050	AMD	03-05-078	220- 56-33000U	NEW-E	03-06-020	232- 19-015	REP-P	03-06-080
220- 44-05000R	REP-E	03-04-058	220- 56-33000V	NEW-E	03-07-003	232- 19-020	REP-P	03-06-080
220- 44-05000S	NEW-E	03-04-058	220- 56-350	AMD	03-05-057	232- 19-030	REP-P	03-06-080
220- 44-05000S	REP-E	03-05-027	220- 56-35000P	NEW-E	03-07-025	232- 19-040	REP-P	03-06-080
220- 44-05000T	NEW-E	03-05-027	220- 56-35000P	REP-E	03-07-025	232- 19-050	REP-P	03-06-080
220- 44-05000T	REP-E	03-07-024	220- 56-370	REP-P	03-06-079	232- 19-055	REP-P	03-06-080
220- 44-05000U	NEW-E	03-07-024	220- 56-380	AMD	03-05-057	232- 19-060	REP-P	03-06-080
220- 47-301	AMD	03-05-076	220- 69-240	AMD	03-05-059	232- 19-070	REP-P	03-06-080
220- 48-029	AMD	03-05-063	220- 69-240	AMD	03-05-064	232- 19-080	REP-P	03-06-080
220- 48-032	AMD	03-05-063	220- 69-241	AMD	03-05-059	232- 19-090	REP-P	03-06-080
220- 52-019	AMD-P	03-06-065	220- 72-002	AMD-P	03-06-109	232- 19-100	REP-P	03-06-080
220- 52-04000M	REP-E	03-06-030	220- 72-011	AMD-P	03-06-109	232- 19-110	REP-P	03-06-080
220- 52-04600N	REP-E	03-04-046	220- 72-015	AMD-P	03-06-109	232- 19-120	REP-P	03-06-080
220- 52-04600P	NEW-E	03-04-007	220- 72-070	AMD-P	03-06-109	232- 19-130	REP-P	03-06-080
220- 52-04600P	REP-E	03-04-007	220- 72-073	AMD-P	03-06-109	232- 19-140	REP-P	03-06-080
220- 52-04600P	REP-E	03-07-014	220- 72-076	AMD-P	03-06-109	232- 19-180	REP-P	03-06-080
220- 52-04600Q	NEW-E	03-04-046	220- 72-086	NEW-P	03-06-109	232- 28-02201	REP-P	03-02-103
220- 52-04600Q	REP-E	03-07-002	220- 72-087	NEW-P	03-06-109	232- 28-02201	REP	03-06-110
220- 52-04600R	NEW-E	03-05-006	220- 72-089	NEW-P	03-06-109	232- 28-02202	REP-P	03-02-103
220- 52-04600R	REP-E	03-06-020	220- 72-090	NEW-P	03-06-109	232- 28-02202	REP	03-06-110
220- 52-04600S	NEW-E	03-05-047	220- 72-092	NEW-P	03-06-109	232- 28-02203	REP-P	03-02-103
220- 52-04600T	NEW-E	03-06-020	220-100-010	AMD-P	03-06-080	232- 28-02203	REP	03-06-110
220- 52-04600U	NEW-E	03-07-002	220-100-020	AMD-P	03-06-080	232- 28-02204	REP-P	03-02-103
220- 52-04600V	NEW-E	03-07-014	220-100-027	NEW-P	03-06-080	232- 28-02204	REP	03-06-110
220- 52-04600V	REP-E	03-07-014	220-100-030	AMD-P	03-06-080	232- 28-02205	REP-P	03-02-103
220- 52-050	AMD	03-05-060	220-100-040	AMD-P	03-06-080	232- 28-02205	REP	03-06-110
220- 52-051	AMD	03-05-064	220-100-045	AMD-P	03-06-080	232- 28-02206	REP-P	03-02-103
220- 52-066	AMD-P	03-06-064	220-100-055	AMD-P	03-06-080	232- 28-02206	REP	03-06-110
220- 52-07300A	REP-E	03-03-002	220-100-057	NEW-P	03-06-080	232- 28-02220	REP-P	03-06-112
220- 52-07300B	NEW-E	03-03-002	220-100-058	NEW-P	03-06-080	232- 28-02240	REP-P	03-06-112
220- 52-07300B	REP-E	03-03-068	220-100-060	AMD-P	03-06-080	232- 28-02280	REP-P	03-02-103
220- 52-07300C	NEW-E	03-03-068	220-100-065	AMD-P	03-06-080	232- 28-02280	REP	03-06-110
220- 52-07300C	REP-E	03-06-001	220-100-068	NEW-P	03-06-080	232- 28-248	AMD-P	03-06-108
220- 52-07300D	NEW-E	03-06-001	220-100-070	AMD-P	03-06-080	232- 28-266	AMD-P	03-06-066
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232- 28-276	REP-P	03-06-106	246- 01-090	AMD-X	03-04-105	246-290-71004	NEW-P	03-03-079
232- 28-278	REP-P	03-06-113	246- 01-100	REP-X	03-04-105	246-290-71005	NEW-P	03-03-079
232- 28-279	REP-P	03-06-114	246-100	AMD-W	03-06-051	246-290-71006	NEW-P	03-03-079
232- 28-282	AMD	03-03-016	246-100-011	AMD	03-06-003	246-290-71007	NEW-P	03-03-079
232- 28-291	AMD-P	03-06-105	246-100-036	AMD	03-05-048	246-290-72001	AMD-P	03-03-079
232- 28-331	NEW-P	03-02-103	246-100-040	NEW	03-05-048	246-290-72005	AMD-P	03-03-079
232- 28-331	NEW	03-06-110	246-100-045	NEW	03-05-048	246-290-72007	AMD-P	03-03-079
232- 28-332	NEW-P	03-02-103	246-100-050	NEW	03-05-048	246-290-72010	AMD-P	03-03-079
232- 28-332	NEW	03-06-110	246-100-055	NEW	03-05-048	246-290-72012	AMD-P	03-03-079
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232- 28-333	NEW	03-06-110	246-100-065	NEW	03-05-048	246-294	PREP	03-04-044
232- 28-334	NEW-P	03-02-103	246-100-070	NEW	03-05-048	246-310-290	NEW-P	03-03-097
232- 28-334	NEW	03-06-110	246-101-505	AMD	03-06-003	246-310-290	NEW	03-07-096
232- 28-335	NEW-P	03-02-103	246-243-150	AMD-P	03-07-094	246-310-295	NEW-P	03-03-097
232- 28-335	NEW	03-06-110	246-244-020	AMD-P	03-07-094	246-310-295	NEW	03-07-096
232- 28-336	NEW-P	03-02-103	246-244-030	AMD-P	03-07-094	246-310-990	AMD-P	03-03-097
232- 28-336	NEW	03-06-110	246-244-080	AMD-P	03-07-094	246-310-990	AMD	03-07-096
232- 28-337	NEW-P	03-06-112	246-244-110	AMD-P	03-07-094	246-455-001	AMD-P	03-05-024
232- 28-341	NEW-P	03-06-106	246-244-115	NEW-P	03-07-094	246-455-010	AMD-P	03-05-024
232- 28-351	NEW-P	03-06-113	246-244-160	AMD-P	03-07-094	246-455-020	AMD-P	03-05-024
232- 28-352	NEW-P	03-06-114	246-244-240	AMD-P	03-07-094	246-455-030	AMD-P	03-05-024
232- 28-42600C	NEW-E	03-03-102	246-290	PREP	03-04-044	246-455-040	AMD-P	03-05-024
232- 28-42600C	REP-E	03-03-102	246-290	PREP-W	03-07-101	246-455-070	AMD-P	03-05-024
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232- 28-619	AMD	03-05-057	246-290	PREP	03-07-103	246-455-090	AMD-P	03-05-024
232- 28-61900B	REP-E	03-04-047	246-290-002	AMD-P	03-03-079	246-455-100	AMD-P	03-05-024
232- 28-61900C	NEW-E	03-03-004	246-290-010	AMD-P	03-03-079	246-562-020	AMD-E	03-06-050
232- 28-61900C	REP-E	03-03-004	246-290-025	AMD-P	03-03-079	246-802-990	AMD-P	03-03-077
232- 28-61900D	NEW-E	03-03-098	246-290-060	AMD-P	03-03-078	246-802-990	AMD	03-07-095
232- 28-61900D	REP-E	03-03-098	246-290-060	AMD-P	03-03-079	246-815-990	AMD-P	03-03-077
232- 28-61900E	NEW-E	03-04-047	246-290-100	AMD-P	03-03-079	246-815-990	AMD	03-07-095
232- 28-61900E	REP-E	03-04-047	246-290-105	AMD-P	03-03-079	246-830-990	AMD-P	03-03-077
232- 28-61900F	NEW-E	03-05-003	246-290-125	AMD-P	03-03-079	246-830-990	AMD	03-07-095
232- 28-61900F	REP-E	03-05-003	246-290-220	AMD-P	03-03-079	246-836-990	AMD-P	03-03-077
232- 28-61900G	NEW-E	03-05-038	246-290-300	AMD-P	03-03-079	246-836-990	AMD	03-07-095
232- 28-61900G	REP-E	03-05-038	246-290-310	AMD-P	03-03-079	246-851-160	PREP	03-04-043
232- 28-61900H	NEW-E	03-05-037	246-290-320	AMD-P	03-03-079	246-851-170	PREP	03-04-043
232- 28-61900H	REP-E	03-05-037	246-290-416	AMD-P	03-03-079	246-851-390	REP	03-05-021
232- 28-61900I	NEW-E	03-06-009	246-290-451	AMD-P	03-03-079	246-869-260	PREP-W	03-04-042
232- 28-61900I	REP-E	03-06-009	246-290-480	AMD-P	03-03-079	246-887-045	NEW	03-04-045
232- 28-61900J	NEW-E	03-06-008	246-290-490	AMD-P	03-03-079	246-887-165	NEW-X	03-03-096
232- 28-61900J	REP-E	03-06-008	246-290-495	REP-P	03-03-079	246-889-050	NEW-P	03-06-002
232- 28-61900K	NEW-E	03-06-028	246-290-601	AMD-P	03-03-079	246-924-354	PREP	03-05-020
232- 28-61900K	REP-E	03-06-028	246-290-630	AMD-P	03-03-079	246-927-990	NEW-P	03-05-022
232- 28-61900L	NEW-E	03-07-001	246-290-634	AMD-P	03-03-079	246-933-320	AMD-P	03-06-100
232- 28-61900L	REP-E	03-07-001	246-290-638	AMD-P	03-03-079	246-933-501	NEW-P	03-06-100
232- 28-61900M	NEW-E	03-07-016	246-290-654	AMD-P	03-03-079	246-933-510	NEW-P	03-06-100
232- 28-61900M	REP-E	03-07-016	246-290-660	AMD-P	03-03-079	246-933-520	NEW-P	03-06-100
232- 28-61900N	NEW-E	03-07-023	246-290-662	AMD-P	03-03-079	246-933-530	NEW-P	03-06-100
232- 28-61900N	REP-E	03-07-023	246-290-664	AMD-P	03-03-079	246-933-550	NEW-P	03-06-100
232- 28-61900P	NEW-E	03-07-075	246-290-666	AMD-P	03-03-079	246-933-590	NEW-P	03-05-023
232- 28-61900P	REP-E	03-07-075	246-290-672	AMD-P	03-03-079	246-935-070	AMD-P	03-04-104
232- 28-61900Q	REP-E	03-05-003	246-290-674	AMD-P	03-03-079	250- 61	PREP	03-04-079
232- 28-61900Q	NEW-E	03-07-064	246-290-676	AMD-P	03-03-079	250- 69	AMD	03-04-101
232- 28-61900Q	REP-E	03-07-064	246-290-690	AMD-P	03-03-079	250- 69-010	AMD	03-04-101
232- 28-61900R	NEW-E	03-07-068	246-290-691	AMD-P	03-03-079	250- 69-020	AMD	03-04-101
232- 28-61900R	REP-E	03-07-068	246-290-692	AMD-P	03-03-079	250- 69-030	AMD	03-04-101
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250- 69-110	REP	03-04-101	296- 13-020	REP-P	03-05-074	296- 17-760	PREP	03-03-026
251- 04-035	NEW-E	03-03-042	296- 13-030	REP-P	03-05-074	296- 17-761	PREP	03-03-026
251- 04-035	NEW-P	03-07-059	296- 13-035	REP-P	03-05-074	296- 17-762	PREP	03-03-026
260- 08-595	NEW	03-03-041	296- 13-040	REP-P	03-05-074	296- 17-76201	PREP	03-03-026
260- 13-420	PREP	03-03-067	296- 13-050	REP-P	03-05-074	296- 17-76202	PREP	03-03-026
260- 13-420	AMD-P	03-07-054	296- 13-052	REP-P	03-05-074	296- 17-76203	PREP	03-03-026
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260- 20-035	REP-P	03-07-051	296- 13-055	REP-P	03-05-074	296- 17-76205	PREP	03-03-026
260- 24	PREP	03-05-067	296- 13-057	REP-P	03-05-074	296- 17-76206	PREP	03-03-026
260- 28-030	AMD-P	03-03-040	296- 13-060	REP-P	03-05-074	296- 17-76207	PREP	03-03-026
260- 28-030	AMD	03-07-056	296- 13-080	REP-P	03-05-074	296- 17-76208	PREP	03-03-026
260- 32-005	NEW-P	03-07-074	296- 13-090	REP-P	03-05-074	296- 17-76209	PREP	03-03-026
260- 34-090	AMD	03-05-071	296- 13-100	REP-P	03-05-074	296- 17-76210	PREP	03-03-026
260- 48	PREP	03-05-068	296- 13-110	REP-P	03-05-074	296- 17-76211	PREP	03-03-026
260- 48-630	AMD-P	03-04-089	296- 13-130	REP-P	03-05-074	296- 17-76212	PREP	03-03-026
260- 48-630	AMD	03-07-057	296- 13-140	REP-P	03-05-074	296- 200A	PREP	03-04-098
260- 48-940	NEW-P	03-07-053	296- 13-150	REP-P	03-05-074	296- 24	PREP	03-03-110
260- 70-610	AMD-P	03-07-052	296- 13-160	REP-P	03-05-074	296- 37	PREP	03-04-097
260- 70-630	AMD-P	03-07-055	296- 13-170	REP-P	03-05-074	296- 400A	PREP	03-04-098
260- 70-650	AMD	03-06-004	296- 13-180	REP-P	03-05-074	296- 401B	PREP	03-04-098
260- 70-660	AMD	03-06-004	296- 13-190	REP-P	03-05-074	296- 402A	PREP	03-04-098
260- 70-700	AMD	03-06-004	296- 13-200	REP-P	03-05-074	296- 45	PREP	03-07-072
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260- 72-010	REP-P	03-05-070	296- 13-220	REP-P	03-05-074	296- 46A-090	REP-P	03-05-074
260- 72-040	NEW-P	03-04-090	296- 13-230	REP-P	03-05-074	296- 46A-092	REP-P	03-05-074
260- 72-040	NEW	03-07-058	296- 13-240	REP-P	03-05-074	296- 46A-095	REP-P	03-05-074
284- 07-010	AMD	03-03-133	296- 13-250	REP-P	03-05-074	296- 46A-100	REP-P	03-05-074
284- 22-020	AMD	03-03-052	296- 13-260	REP-P	03-05-074	296- 46A-102	REP-P	03-05-074
284- 22-050	AMD	03-03-052	296- 13-270	REP-P	03-05-074	296- 46A-104	REP-P	03-05-074
284- 22-060	AMD	03-03-052	296- 13-280	REP-P	03-05-074	296- 46A-110	REP-P	03-05-074
284- 22-080	AMD	03-03-052	296- 13-290	REP-P	03-05-074	296- 46A-130	REP-P	03-05-074
284- 24A-070	NEW-W	03-03-063	296- 13-300	REP-P	03-05-074	296- 46A-140	REP-P	03-05-074
284- 30-390	AMD-P	03-03-132	296- 13-310	REP-P	03-05-074	296- 46A-155	REP-P	03-05-074
284- 30-3901	NEW-P	03-03-132	296- 13-320	REP-P	03-05-074	296- 46A-21052	REP-P	03-05-074
284- 30-3902	NEW-P	03-03-132	296- 13-330	REP-P	03-05-074	296- 46A-215	REP-P	03-05-074
284- 30-3903	NEW-P	03-03-132	296- 13-340	REP-P	03-05-074	296- 46A-220	REP-P	03-05-074
284- 30-3904	NEW-P	03-03-132	296- 13-350	REP-P	03-05-074	296- 46A-22530	REP-P	03-05-074
284- 30-3905	NEW-P	03-03-132	296- 13-360	REP-P	03-05-074	296- 46A-23001	REP-P	03-05-074
284- 30-3906	NEW-P	03-03-132	296- 13-370	REP-P	03-05-074	296- 46A-23028	REP-P	03-05-074
284- 30-3907	NEW-P	03-03-132	296- 13-380	REP-P	03-05-074	296- 46A-23040	REP-P	03-05-074
284- 30-3908	NEW-P	03-03-132	296- 13-390	REP-P	03-05-074	296- 46A-23062	REP-P	03-05-074
284- 30-3909	NEW-P	03-03-132	296- 13-400	REP-P	03-05-074	296- 46A-250	REP-P	03-05-074
284- 30-3910	NEW-P	03-03-132	296- 13-410	REP-P	03-05-074	296- 46A-300	REP-P	03-05-074
284- 30-3911	NEW-P	03-03-132	296- 13-420	REP-P	03-05-074	296- 46A-30011	REP-P	03-05-074
284- 30-3912	NEW-P	03-03-132	296- 13-430	REP-P	03-05-074	296- 46A-324	REP-P	03-05-074
284- 30-3913	NEW-P	03-03-132	296- 13-440	REP-P	03-05-074	296- 46A-348	REP-P	03-05-074
284- 30-3914	NEW-P	03-03-132	296- 14-310	NEW-P	03-06-074	296- 46A-365	REP-P	03-05-074
284- 30-3915	NEW-P	03-03-132	296- 14-315	NEW-P	03-06-074	296- 46A-370	REP-P	03-05-074
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284- 43-323	NEW	03-07-006	296- 14-325	NEW-P	03-06-074	296- 46A-41030	REP-P	03-05-074
284- 91	AMD	03-07-007	296- 14-330	NEW-P	03-06-074	296- 46A-422	REP-P	03-05-074
284- 91-001	NEW	03-07-007	296- 150C	PREP	03-04-098	296- 46A-450	REP-P	03-05-074
284- 91-010	REP	03-07-007	296- 150F	PREP	03-04-098	296- 46A-500	REP-P	03-05-074
284- 91-020	REP	03-07-007	296- 150M	PREP	03-04-098	296- 46A-514	REP-P	03-05-074
284- 91-025	REP	03-07-007	296- 150P	PREP	03-04-098	296- 46A-517	REP-P	03-05-074
284- 91-027	REP	03-07-007	296- 150R	PREP	03-04-098	296- 46A-550	REP-P	03-05-074
284- 91-030	REP	03-07-007	296- 150T	PREP	03-04-098	296- 46A-553	REP-P	03-05-074
284- 91-040	REP	03-07-007	296- 150V	PREP	03-04-098	296- 46A-600	REP-P	03-05-074
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296-46A-910	REP-P	03-05-074	296-46B-971	NEW-P	03-05-074	296-130-065	AMD	03-03-010
296-46A-915	REP-P	03-05-074	296-46B-975	NEW-P	03-05-074	296-130-070	AMD	03-03-010
296-46A-920	REP-P	03-05-074	296-46B-980	NEW-P	03-05-074	296-130-080	AMD	03-03-010
296-46A-930	REP-P	03-05-074	296-46B-985	NEW-P	03-05-074	296-130-100	NEW	03-03-010
296-46A-931	REP-P	03-05-074	296-46B-990	NEW-P	03-05-074	296-130-500	REP	03-03-010
296-46A-932	REP-P	03-05-074	296-46B-995	NEW-P	03-05-074	296-155	PREP	03-04-097
296-46A-933	REP-P	03-05-074	296-46B-998	NEW-P	03-05-074	296-155-300	AMD	03-06-075
296-46A-934	REP-P	03-05-074	296-46B-999	NEW-P	03-05-074	296-155-305	AMD	03-06-075
296-46A-935	REP-P	03-05-074	296-52-60020	AMD	03-06-073	296-155-310	AMD	03-06-075
296-46A-940	REP-P	03-05-074	296-52-60130	AMD	03-06-073	296-155-315	AMD	03-06-075
296-46A-950	REP-P	03-05-074	296-52-61040	AMD-X	03-05-073	296-304-01001	AMD	03-04-099
296-46A-960	REP-P	03-05-074	296-52-62005	AMD-X	03-05-073	296-304-01003	AMD	03-04-099
296-46B-005	NEW-P	03-05-074	296-52-63005	AMD-X	03-05-073	296-304-02007	AMD	03-04-099
296-46B-010	NEW-P	03-05-074	296-52-65005	AMD-X	03-05-073	296-304-02009	AMD	03-04-099
296-46B-020	NEW-P	03-05-074	296-52-66005	AMD-X	03-05-073	296-304-03007	AMD	03-04-099
296-46B-030	NEW-P	03-05-074	296-52-67065	AMD	03-06-073	296-304-04001	AMD	03-04-099
296-46B-040	NEW-P	03-05-074	296-52-67160	AMD	03-06-073	296-304-05001	AMD	03-04-099
296-46B-110	NEW-P	03-05-074	296-52-68060	AMD	03-06-073	296-304-05003	AMD	03-04-099
296-46B-210	NEW-P	03-05-074	296-52-69010	AMD	03-06-073	296-304-05005	AMD	03-04-099
296-46B-215	NEW-P	03-05-074	296-52-69015	AMD	03-06-073	296-304-05009	AMD	03-04-099
296-46B-220	NEW-P	03-05-074	296-52-69095	AMD	03-06-073	296-304-05013	AMD	03-04-099
296-46B-225	NEW-P	03-05-074	296-52-69125	AMD	03-06-073	296-304-06003	AMD	03-04-099
296-46B-230	NEW-P	03-05-074	296-52-69130	NEW	03-06-073	296-304-07009	AMD	03-04-099
296-46B-250	NEW-P	03-05-074	296-52-70010	AMD	03-06-073	296-304-07011	AMD	03-04-099
296-46B-300	NEW-P	03-05-074	296-52-710	AMD	03-06-073	296-304-07013	AMD	03-04-099
296-46B-314	NEW-P	03-05-074	296-52-71020	AMD	03-06-073	296-304-08001	AMD	03-04-099
296-46B-334	NEW-P	03-05-074	296-52-71040	AMD	03-06-073	296-304-09017	AMD	03-04-099
296-46B-358	NEW-P	03-05-074	296-52-71045	AMD	03-06-073	296-304-09021	AMD	03-04-099
296-46B-394	NEW-P	03-05-074	296-56	PREP	03-03-110	296-304-09023	AMD	03-04-099
296-46B-410	NEW-P	03-05-074	296-59	PREP	03-03-110	296-304-10003	AMD	03-04-099
296-46B-422	NEW-P	03-05-074	296-62	PREP	03-04-097	296-304-10007	AMD	03-04-099
296-46B-430	NEW-P	03-05-074	296-62-054	REP-X	03-04-100	296-305	PREP	03-04-097
296-46B-450	NEW-P	03-05-074	296-62-05402	REP-X	03-04-100	296-307-009	AMD-X	03-04-100
296-46B-501	NEW-P	03-05-074	296-62-05404	REP-X	03-04-100	296-307-018	AMD-X	03-04-100
296-46B-514	NEW-P	03-05-074	296-62-05406	REP-X	03-04-100	296-307-03930	NEW-X	03-04-100
296-46B-517	NEW-P	03-05-074	296-62-05408	REP-X	03-04-100	296-307-03935	NEW-X	03-04-100
296-46B-520	NEW-P	03-05-074	296-62-05410	REP-X	03-04-100	296-307-03940	NEW-X	03-04-100
296-46B-527	NEW-P	03-05-074	296-62-05412	REP-X	03-04-100	296-307-03945	NEW-X	03-04-100
296-46B-550	NEW-P	03-05-074	296-62-070	REP-X	03-04-100	296-307-40013	AMD-X	03-04-100
296-46B-553	NEW-P	03-05-074	296-62-07001	REP-X	03-04-100	296-307-40015	AMD-X	03-04-100
296-46B-555	NEW-P	03-05-074	296-62-07003	REP-X	03-04-100	296-307-40027	AMD-X	03-04-100
296-46B-600	NEW-P	03-05-074	296-62-07005	REP-X	03-04-100	296-307-445	NEW-X	03-04-100
296-46B-680	NEW-P	03-05-074	296-62-080	REP-X	03-04-100	296-307-450	AMD-X	03-04-100
296-46B-700	NEW-P	03-05-074	296-62-11021	REP-X	03-04-100	296-307-45001	REP-X	03-04-100
296-46B-800	NEW-P	03-05-074	296-62-130	REP-X	03-04-100	296-307-45003	REP-X	03-04-100
296-46B-900	NEW-P	03-05-074	296-78-56505	AMD	03-06-076	296-307-45005	AMD-X	03-04-100
296-46B-905	NEW-P	03-05-074	296-78-71001	AMD	03-06-076	296-307-45007	REP-X	03-04-100
296-46B-910	NEW-P	03-05-074	296-78-71011	AMD	03-06-076	296-307-45009	REP-X	03-04-100
296-46B-911	NEW-P	03-05-074	296-78-835	AMD	03-06-076	296-307-45010	NEW-X	03-04-100
296-46B-915	NEW-P	03-05-074	296-79	PREP	03-03-110	296-307-45011	REP-X	03-04-100
296-46B-920	NEW-P	03-05-074	296-96	PREP	03-04-098	296-307-45013	REP-X	03-04-100
296-46B-925	NEW-P	03-05-074	296-104	PREP	03-03-129	296-307-45015	AMD-X	03-04-100
296-46B-930	NEW-P	03-05-074	296-128-500	AMD	03-03-109	296-307-45017	REP-X	03-04-100
296-46B-935	NEW-P	03-05-074	296-128-532	NEW	03-03-109	296-307-45019	REP-X	03-04-100
296-46B-940	NEW-P	03-05-074	296-128-533	NEW	03-03-109	296-307-45020	NEW-X	03-04-100
296-46B-945	NEW-P	03-05-074	296-130-010	AMD	03-03-010	296-307-45021	REP-X	03-04-100
296-46B-950	NEW-P	03-05-074	296-130-020	AMD	03-03-010	296-307-45023	REP-X	03-04-100
296-46B-951	NEW-P	03-05-074	296-130-030	AMD	03-03-010	296-307-45025	AMD-X	03-04-100
296-46B-955	NEW-P	03-05-074	296-130-035	AMD	03-03-010	296-307-45027	REP-X	03-04-100
296-46B-960	NEW-P	03-05-074	296-130-040	AMD	03-03-010	296-307-45029	REP-X	03-04-100

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-307-45030	NEW-X	03-04-100	296-401B-476	REP-P	03-05-074	296-402A-440	REP-P	03-05-074
296-307-45035	NEW-X	03-04-100	296-401B-500	REP-P	03-05-074	296-402A-450	REP-P	03-05-074
296-307-45045	NEW-X	03-04-100	296-401B-510	REP-P	03-05-074	296-402A-460	REP-P	03-05-074
296-307-45050	NEW-X	03-04-100	296-401B-520	REP-P	03-05-074	296-402A-470	REP-P	03-05-074
296-307-455	NEW-X	03-04-100	296-401B-600	REP-P	03-05-074	296-402A-480	REP-P	03-05-074
296-307-45505	NEW-X	03-04-100	296-401B-610	REP-P	03-05-074	296-402A-490	REP-P	03-05-074
296-307-45510	NEW-X	03-04-100	296-401B-620	REP-P	03-05-074	296-402A-500	REP-P	03-05-074
296-307-45515	NEW-X	03-04-100	296-401B-630	REP-P	03-05-074	296-402A-510	REP-P	03-05-074
296-307-45520	NEW-X	03-04-100	296-401B-640	REP-P	03-05-074	296-402A-520	REP-P	03-05-074
296-307-45525	NEW-X	03-04-100	296-401B-700	REP-P	03-05-074	296-402A-530	REP-P	03-05-074
296-307-45535	NEW-X	03-04-100	296-401B-800	REP-P	03-05-074	296-402A-540	REP-P	03-05-074
296-307-45540	NEW-X	03-04-100	296-401B-850	REP-P	03-05-074	296-402A-550	REP-P	03-05-074
296-307-45545	NEW-X	03-04-100	296-401B-860	REP-P	03-05-074	296-402A-560	REP-P	03-05-074
296-307-45550	NEW-X	03-04-100	296-401B-870	REP-P	03-05-074	296-402A-570	REP-P	03-05-074
296-307-45555	NEW-X	03-04-100	296-401B-900	REP-P	03-05-074	296-402A-580	REP-P	03-05-074
296-307-45560	NEW-X	03-04-100	296-401B-910	REP-P	03-05-074	296-402A-590	REP-P	03-05-074
296-307-45565	NEW-X	03-04-100	296-401B-920	REP-P	03-05-074	296-402A-600	REP-P	03-05-074
296-307-460	NEW-X	03-04-100	296-401B-950	REP-P	03-05-074	296-402A-610	REP-P	03-05-074
296-307-46005	NEW-X	03-04-100	296-401B-960	REP-P	03-05-074	296-402A-620	REP-P	03-05-074
296-307-46025	NEW-X	03-04-100	296-401B-970	REP-P	03-05-074	296-402A-630	REP-P	03-05-074
296-307-46030	NEW-X	03-04-100	296-401B-980	REP-P	03-05-074	296-402A-640	REP-P	03-05-074
296-307-465	NEW-X	03-04-100	296-401B-990	REP-P	03-05-074	296-402A-650	REP-P	03-05-074
296-307-55030	AMD-X	03-04-100	296-402A-010	REP-P	03-05-074	296-402A-660	REP-P	03-05-074
296-307-560	NEW-X	03-04-100	296-402A-020	REP-P	03-05-074	296-402A-670	REP-P	03-05-074
296-307-56005	NEW-X	03-04-100	296-402A-030	REP-P	03-05-074	296-402A-675	REP-P	03-05-074
296-307-56010	NEW-X	03-04-100	296-402A-040	REP-P	03-05-074	296-402A-680	REP-P	03-05-074
296-307-56015	NEW-X	03-04-100	296-402A-050	REP-P	03-05-074	296-402A-690	REP-P	03-05-074
296-307-56020	NEW-X	03-04-100	296-402A-060	REP-P	03-05-074	296-800	PREP	03-04-097
296-307-56025	NEW-X	03-04-100	296-402A-070	REP-P	03-05-074	296-878	PREP	03-03-110
296-307-56030	NEW-X	03-04-100	296-402A-080	REP-P	03-05-074	308- 13-150	PREP	03-04-056
296-307-56035	NEW-X	03-04-100	296-402A-090	REP-P	03-05-074	308- 15	PREP	03-04-080
296-307-56040	NEW-X	03-04-100	296-402A-100	REP-P	03-05-074	308- 17-120	AMD	03-03-024
296-307-56045	NEW-X	03-04-100	296-402A-110	REP-P	03-05-074	308- 17-240	AMD	03-03-024
296-307-56050	NEW-X	03-04-100	296-402A-130	REP-P	03-05-074	308- 20-120	AMD-P	03-05-058
296-401B-092	REP-P	03-05-074	296-402A-140	REP-P	03-05-074	308- 20-210	AMD-P	03-03-119
296-401B-100	REP-P	03-05-074	296-402A-150	REP-P	03-05-074	308- 20-210	AMD	03-06-054
296-401B-110	REP-P	03-05-074	296-402A-160	REP-P	03-05-074	308- 48-800	PREP	03-04-076
296-401B-120	REP-P	03-05-074	296-402A-170	REP-P	03-05-074	308- 56A-020	AMD	03-05-081
296-401B-130	REP-P	03-05-074	296-402A-180	REP-P	03-05-074	308- 56A-021	AMD-P	03-07-080
296-401B-140	REP-P	03-05-074	296-402A-190	REP-P	03-05-074	308- 56A-030	AMD	03-05-081
296-401B-180	REP-P	03-05-074	296-402A-200	REP-P	03-05-074	308- 56A-040	AMD	03-05-081
296-401B-200	REP-P	03-05-074	296-402A-210	REP-P	03-05-074	308- 56A-056	AMD	03-05-081
296-401B-250	REP-P	03-05-074	296-402A-220	REP-P	03-05-074	308- 56A-060	AMD	03-05-081
296-401B-260	REP-P	03-05-074	296-402A-230	REP-P	03-05-074	308- 56A-065	AMD-P	03-06-040
296-401B-270	REP-P	03-05-074	296-402A-240	REP-P	03-05-074	308- 56A-075	AMD-P	03-06-040
296-401B-300	REP-P	03-05-074	296-402A-250	REP-P	03-05-074	308- 56A-110	AMD	03-05-081
296-401B-310	REP-P	03-05-074	296-402A-260	REP-P	03-05-074	308- 56A-115	AMD	03-05-081
296-401B-320	REP-P	03-05-074	296-402A-270	REP-P	03-05-074	308- 56A-140	AMD-P	03-05-001
296-401B-330	REP-P	03-05-074	296-402A-290	REP-P	03-05-074	308- 56A-150	AMD-P	03-05-001
296-401B-335	REP-P	03-05-074	296-402A-300	REP-P	03-05-074	308- 56A-150	AMD	03-05-081
296-401B-340	REP-P	03-05-074	296-402A-310	REP-P	03-05-074	308- 56A-160	AMD-P	03-05-001
296-401B-350	REP-P	03-05-074	296-402A-320	REP-P	03-05-074	308- 56A-200	AMD-P	03-05-001
296-401B-410	REP-P	03-05-074	296-402A-330	REP-P	03-05-074	308- 56A-210	AMD	03-05-081
296-401B-420	REP-P	03-05-074	296-402A-340	REP-P	03-05-074	308- 56A-215	AMD-P	03-05-001
296-401B-430	REP-P	03-05-074	296-402A-350	REP-P	03-05-074	308- 56A-250	AMD-P	03-03-095
296-401B-440	REP-P	03-05-074	296-402A-360	REP-P	03-05-074	308- 56A-265	AMD-P	03-03-095
296-401B-445	REP-P	03-05-074	296-402A-370	REP-P	03-05-074	308- 56A-270	AMD-P	03-03-095
296-401B-450	REP-P	03-05-074	296-402A-380	REP-P	03-05-074	308- 56A-275	AMD-P	03-03-095
296-401B-455	REP-P	03-05-074	296-402A-390	REP-P	03-05-074	308- 56A-295	AMD	03-05-081
296-401B-460	REP-P	03-05-074	296-402A-400	REP-P	03-05-074	308- 56A-455	AMD-P	03-06-040
296-401B-470	REP-P	03-05-074	296-402A-410	REP-P	03-05-074	308- 56A-640	PREP-W	03-07-078
296-401B-475	REP-P	03-05-074	296-402A-430	REP-P	03-05-074	308- 57	PREP-W	03-07-077

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308- 63	PREP-W	03-07-079	365-210-150	NEW	03-07-035	388- 71-0420	AMD-E	03-05-098
308- 93-370	AMD	03-07-076	365-210-160	NEW	03-07-035	388- 71-0425	AMD-E	03-05-044
308- 93-380	AMD	03-07-076	365-210-170	NEW	03-07-035	388- 71-0425	AMD-E	03-05-098
308- 93-390	AMD	03-07-076	365-210-180	NEW	03-07-035	388- 71-0430	AMD-E	03-05-044
308- 93-440	AMD	03-07-076	365-210-190	NEW	03-07-035	388- 71-0430	AMD-E	03-05-098
308- 96A-021	AMD	03-05-080	365-212-010	NEW	03-07-036	388- 71-0435	AMD-E	03-05-044
308- 96A-047	NEW	03-05-080	365-212-020	NEW	03-07-036	388- 71-0435	AMD-E	03-05-098
308- 96A-074	AMD	03-05-082	365-212-030	NEW	03-07-036	388- 71-0442	NEW-E	03-05-044
308- 96A-177	REP	03-05-080	365-212-040	NEW	03-07-036	388- 71-0442	NEW-E	03-05-098
308- 96A-314	AMD	03-05-082	365-212-050	NEW	03-07-036	388- 71-0445	AMD-E	03-05-044
308- 96A-316	AMD	03-05-082	365-212-060	NEW	03-07-036	388- 71-0445	AMD-E	03-05-098
308- 96A-550	AMD	03-05-082	365-212-070	NEW	03-07-036	388- 71-0460	AMD-E	03-05-044
308- 99-040	AMD	03-04-092	365-212-080	NEW	03-07-036	388- 71-0460	AMD-E	03-05-098
308-100-090	AMD-P	03-07-097	365-212-090	NEW	03-07-036	388- 71-0465	AMD-E	03-05-044
308-100-180	AMD-P	03-07-097	374- 80-010	AMD	03-06-015	388- 71-0465	AMD-E	03-05-098
308-124H-029	PREP	03-03-080	374- 80-040	AMD	03-06-015	388- 71-0470	AMD-E	03-05-044
308-124H-061	PREP	03-03-080	374- 80-050	AMD	03-06-015	388- 71-0470	AMD-E	03-05-098
308-129-100	AMD	03-03-055	388- 02-0005	AMD-W	03-06-070	388- 71-0475	REP-P	03-06-093
308-420-010	REP	03-03-054	388- 02-0215	AMD-E	03-07-043	388- 71-0480	AMD-E	03-05-044
308-420-020	AMD	03-03-054	388- 14A-3100	AMD-E	03-04-088	388- 71-0480	AMD-E	03-05-098
308-420-050	AMD	03-03-054	388- 14A-3102	AMD-E	03-04-088	388- 71-0600	AMD-E	03-05-044
308-420-060	AMD	03-03-054	388- 14A-3110	AMD-E	03-04-088	388- 71-0600	AMD-E	03-05-098
308-420-070	AMD	03-03-054	388- 14A-3115	AMD-E	03-04-088	388- 71-0605	AMD-E	03-05-044
308-420-080	REP	03-03-054	388- 14A-3120	AMD-E	03-04-088	388- 71-0605	AMD-E	03-05-098
308-420-090	AMD	03-03-054	388- 14A-3122	NEW-E	03-04-088	388- 71-0610	AMD-E	03-05-044
308-420-100	AMD	03-03-054	388- 14A-3370	AMD-E	03-04-088	388- 71-0610	AMD-E	03-05-098
308-420-130	REP	03-03-054	388- 14A-3810	AMD-E	03-04-088	388- 71-0702	NEW	03-06-024
308-420-140	AMD	03-03-054	388- 14A-6105	NEW-E	03-07-030	388- 71-0704	NEW	03-06-024
308-420-190	AMD	03-03-054	388- 14A-6110	NEW-E	03-07-030	388- 71-0706	NEW	03-06-024
308-420-200	AMD	03-03-054	388- 14A-6115	NEW-E	03-07-030	388- 71-0708	NEW	03-06-024
308-420-210	AMD	03-03-054	388- 14A-6120	NEW-E	03-07-030	388- 71-0710	NEW	03-06-024
308-420-230	AMD	03-03-054	388- 14A-6125	NEW-E	03-07-030	388- 71-0712	NEW	03-06-024
314- 12-170	REP-P	03-02-097	388- 15-650	REP	03-06-024	388- 71-0714	NEW	03-06-024
314- 12-180	REP-P	03-02-097	388- 15-651	REP	03-06-024	388- 71-0716	NEW	03-06-024
314- 12-300	REP-P	03-02-097	388- 15-652	REP	03-06-024	388- 71-0718	NEW	03-06-024
314- 12-310	REP-P	03-02-097	388- 15-653	REP	03-06-024	388- 71-0720	NEW	03-06-024
314- 12-320	REP-P	03-02-097	388- 15-654	REP	03-06-024	388- 71-0722	NEW	03-06-024
314- 12-330	REP-P	03-02-097	388- 15-655	REP	03-06-024	388- 71-0724	NEW	03-06-024
314- 12-340	REP-P	03-02-097	388- 15-656	REP	03-06-024	388- 71-0726	NEW	03-06-024
314- 29-003	NEW-P	03-02-097	388- 15-657	REP	03-06-024	388- 71-0728	NEW	03-06-024
314- 29-015	NEW-P	03-02-097	388- 15-658	REP	03-06-024	388- 71-0730	NEW	03-06-024
314- 29-020	NEW-P	03-02-097	388- 15-659	REP	03-06-024	388- 71-0732	NEW	03-06-024
314- 29-025	NEW-P	03-02-097	388- 15-660	REP	03-06-024	388- 71-0734	NEW	03-06-024
314- 29-030	NEW-P	03-02-097	388- 15-661	REP	03-06-024	388- 71-0736	NEW	03-06-024
314- 29-035	NEW-P	03-02-097	388- 15-662	REP	03-06-024	388- 71-0738	NEW	03-06-024
314- 29-040	NEW-P	03-02-097	388- 32-0025	PREP	03-03-056	388- 71-0740	NEW	03-06-024
315- 04-065	NEW-C	03-07-067	388- 32-0025	AMD-E	03-03-069	388- 71-0742	NEW	03-06-024
352- 28	PREP	03-04-115	388- 32-0030	PREP	03-03-056	388- 71-0744	NEW	03-06-024
352- 40	PREP	03-04-038	388- 32-0030	AMD-E	03-03-069	388- 71-0746	NEW	03-06-024
363-116-365	NEW-P	03-06-061	388- 71-0194	AMD-E	03-05-044	388- 71-0748	NEW	03-06-024
363-116-405	NEW-P	03-06-060	388- 71-0194	AMD-E	03-05-098	388- 71-0750	NEW	03-06-024
365-210-030	AMD	03-07-035	388- 71-0202	AMD-E	03-05-044	388- 71-0752	NEW	03-06-024
365-210-060	AMD	03-07-035	388- 71-0202	AMD-E	03-05-098	388- 71-0754	NEW	03-06-024
365-210-061	NEW	03-07-035	388- 71-0203	AMD-E	03-05-044	388- 71-0756	NEW	03-06-024
365-210-062	NEW	03-07-035	388- 71-0203	AMD-E	03-05-098	388- 71-0758	NEW	03-06-024
365-210-063	NEW	03-07-035	388- 71-0405	AMD-E	03-05-044	388- 71-0760	NEW	03-06-024
365-210-090	NEW	03-07-035	388- 71-0405	AMD-E	03-05-098	388- 71-0762	NEW	03-06-024
365-210-100	NEW	03-07-035	388- 71-0410	AMD-E	03-05-044	388- 71-0764	NEW	03-06-024
365-210-110	NEW	03-07-035	388- 71-0410	AMD-E	03-05-098	388- 71-0766	NEW	03-06-024
365-210-120	NEW	03-07-035	388- 71-0415	AMD-E	03-05-044	388- 71-0768	NEW	03-06-024
365-210-130	NEW	03-07-035	388- 71-0415	AMD-E	03-05-098	388- 71-0770	NEW	03-06-024
365-210-140	NEW	03-07-035	388- 71-0420	AMD-E	03-05-044	388- 71-0772	NEW	03-06-024

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388-148-1190	NEW-E	03-05-099	388-450-0156	AMD	03-05-030	388-730-0090	AMD	03-03-070
388-148-1205	NEW-E	03-06-091	388-452-0005	PREP	03-07-042	388-805-005	AMD-E	03-06-059
388-148-1210	NEW-E	03-06-091	388-460-0005	AMD	03-03-072	388-805-030	AMD-E	03-06-059
388-148-1215	NEW-E	03-06-091	388-470-0005	AMD	03-05-015	388-805-035	NEW-E	03-06-059
388-148-1220	NEW-E	03-06-091	388-470-0010	REP	03-05-015	388-805-040	NEW-E	03-06-059
388-148-1225	NEW-E	03-06-091	388-470-0012	AMD	03-05-015	388-805-065	AMD-E	03-06-059
388-148-1230	NEW-E	03-06-091	388-470-0015	REP	03-05-015	388-805-145	AMD-E	03-06-059
388-148-1235	NEW-E	03-06-091	388-470-0020	REP	03-05-015	388-805-205	AMD-E	03-06-059
388-148-1240	NEW-E	03-06-091	388-470-0025	REP	03-05-015	388-805-300	AMD-E	03-06-059
388-148-1245	NEW-E	03-06-091	388-470-0030	REP	03-05-015	388-805-710	AMD-E	03-06-059
388-148-1250	NEW-E	03-06-091	388-470-0035	REP	03-05-015	388-805-720	AMD-E	03-06-059
388-148-1255	NEW-E	03-06-091	388-470-0045	AMD	03-05-015	388-805-730	AMD-E	03-06-059
388-148-1260	NEW-E	03-06-091	388-470-0050	REP	03-05-015	388-805-740	AMD-E	03-06-059
388-148-1265	NEW-E	03-06-091	388-470-0055	AMD	03-05-015	388-805-750	AMD-E	03-06-059
388-148-1270	NEW-E	03-06-091	388-470-0065	REP	03-05-015	388-818-001	REP	03-05-100
388-148-1275	NEW-E	03-06-091	388-474-0012	NEW	03-03-114	388-818-0010	NEW	03-05-100
388-148-1280	NEW-E	03-06-091	388-476-0005	PREP	03-04-086	388-818-002	REP	03-05-100
388-148-1285	NEW-E	03-06-091	388-478-0055	AMD	03-03-114	388-818-0020	NEW	03-05-100
388-148-1290	NEW-E	03-06-091	388-478-0075	PREP	03-06-058	388-818-003	REP	03-05-100
388-148-1295	NEW-E	03-06-091	388-484-0005	AMD	03-06-046	388-818-0030	NEW	03-05-100
388-148-1300	NEW-E	03-06-091	388-492	PREP	03-07-087	388-818-0040	NEW	03-05-100
388-155-070	AMD-P	03-06-092	388-502-0010	PREP	03-03-017	388-818-005	REP	03-05-100
388-155-090	AMD-P	03-06-092	388-502-0010	AMD-E	03-03-027	388-818-0050	NEW	03-05-100
388-180-0100	NEW	03-04-013	388-505-0210	PREP	03-06-055	388-818-0060	NEW	03-05-100
388-180-0110	NEW	03-04-013	388-513-1364	NEW	03-06-048	388-818-0070	NEW	03-05-100
388-180-0120	NEW	03-04-013	388-515-1540	NEW-E	03-05-044	388-818-0080	NEW	03-05-100
388-180-0130	NEW	03-04-013	388-515-1540	NEW-E	03-05-098	388-818-0090	NEW	03-05-100
388-180-0140	NEW	03-04-013	388-523-0120	PREP	03-04-085	388-818-010	REP	03-05-100
388-180-0150	NEW	03-04-013	388-530-1270	NEW	03-05-043	388-818-0100	NEW	03-05-100
388-180-0160	NEW	03-04-013	388-531	PREP	03-04-087	388-818-0110	NEW	03-05-100
388-180-0170	NEW	03-04-013	388-531-0050	AMD	03-06-049	388-818-0120	NEW	03-05-100
388-180-0180	NEW	03-04-013	388-543-1100	AMD-X	03-05-054	388-818-0130	NEW	03-05-100
388-180-0190	NEW	03-04-013	388-543-1225	NEW	03-05-051	388-818-0140	NEW	03-05-100
388-180-0200	NEW	03-04-013	388-546	PREP	03-04-087	388-818-0150	NEW	03-05-100
388-180-0210	NEW	03-04-013	388-550-2501	AMD	03-06-047	388-818-0160	NEW	03-05-100
388-180-0220	NEW	03-04-013	388-550-2511	AMD	03-06-047	388-818-0170	NEW	03-05-100
388-180-0230	NEW	03-04-013	388-550-2521	AMD	03-06-047	388-818-0180	NEW	03-05-100
388-290-0075	AMD-E	03-06-045	388-550-2531	AMD	03-06-047	388-818-0190	NEW	03-05-100
388-290-0085	AMD-E	03-06-045	388-550-2541	AMD	03-06-047	388-818-020	REP	03-05-100
388-290-0190	AMD-E	03-06-045	388-550-2551	AMD	03-06-047	388-818-0200	NEW	03-05-100
388-290-0210	REP-E	03-06-045	388-550-2561	AMD	03-06-047	388-818-0210	NEW	03-05-100
388-310-0800	AMD-E	03-04-066	388-550-2800	PREP	03-04-087	388-818-0220	NEW	03-05-100
388-400-0040	AMD	03-05-028	388-550-3381	AMD	03-06-047	388-818-0230	NEW	03-05-100
388-400-0045	AMD	03-05-028	388-550-3401	REP	03-06-047	388-818-0240	NEW	03-05-100
388-406-0015	PREP-W	03-03-112	388-550-4500	AMD-P	03-06-111	388-818-0250	NEW	03-05-100
388-408-0034	PREP	03-06-056	388-550-4800	PREP	03-04-087	388-818-0260	NEW	03-05-100
388-408-0035	PREP	03-06-056	388-550-4900	AMD-P	03-06-111	388-818-0270	NEW	03-05-100
388-408-0040	PREP	03-06-056	388-550-5000	AMD-P	03-06-111	388-818-0280	NEW	03-05-100
388-408-0045	PREP	03-06-056	388-550-5100	AMD-P	03-06-111	388-818-0290	NEW	03-05-100
388-408-0050	PREP	03-06-056	388-550-5150	AMD-P	03-06-111	388-818-030	REP	03-05-100
388-410-0030	PREP	03-07-040	388-550-5200	AMD-P	03-06-111	388-818-0300	NEW	03-05-100
388-424-0005	PREP	03-03-007	388-550-5400	AMD-P	03-06-111	388-818-0310	NEW	03-05-100
388-424-0010	PREP	03-03-007	388-550-5450	PREP	03-04-087	388-818-0320	NEW	03-05-100
388-424-0015	PREP	03-03-007	388-550-5600	AMD-P	03-06-111	388-818-0330	NEW	03-05-100
388-424-0020	AMD	03-05-029	388-550-6000	PREP	03-04-087	388-818-0340	NEW	03-05-100
388-424-0025	AMD	03-05-029	388-550-6800	NEW-P	03-06-111	388-818-0350	NEW	03-05-100
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388-444-0035	AMD	03-05-031	388-561-0001	AMD	03-06-048	388-818-0370	NEW	03-05-100
388-450-0045	AMD	03-03-071	388-730-0010	AMD	03-03-070	388-818-0380	NEW	03-05-100
388-450-0050	AMD-P	03-03-008	388-730-0060	AMD	03-03-070	388-818-0390	NEW	03-05-100
388-450-0050	AMD	03-06-095	388-730-0065	AMD	03-03-070	388-818-040	REP	03-05-100

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388-818-050	REP	03-05-100	388-865-0565	PREP	03-07-041	415-02-310	NEW	03-06-044
388-818-060	REP	03-05-100	390	PREP	03-04-095	415-02-350	NEW	03-06-044
388-818-070	REP	03-05-100	390-17-110	NEW-S	03-04-094	415-02-380	AMD-P	03-05-042
388-818-080	REP	03-05-100	391-08-001	AMD	03-03-064	415-02-500	NEW-P	03-05-042
388-818-090	REP	03-05-100	391-08-630	AMD	03-03-064	415-02-510	NEW-P	03-05-042
388-818-110	REP	03-05-100	391-08-670	AMD	03-03-064	415-02-520	NEW-P	03-05-042
388-818-130	REP	03-05-100	391-08-670	PREP	03-03-066	415-02-530	NEW-P	03-05-042
388-820-020	AMD-E	03-03-115	391-08-670	AMD-P	03-07-093	415-02-540	NEW-P	03-05-042
388-820-060	AMD-E	03-03-115	391-25-001	AMD	03-03-064	415-02-550	NEW-P	03-05-042
388-820-120	AMD-E	03-03-115	391-25-002	AMD	03-03-064	415-10	PREP	03-04-017
388-825-020	AMD-E	03-03-115	391-25-011	AMD	03-03-064	415-103	PREP	03-07-063
388-825-055	AMD-E	03-03-115	391-25-011	REP-P	03-07-093	415-104	PREP	03-07-063
388-825-100	AMD-E	03-03-115	391-25-032	NEW	03-03-064	415-104-202	NEW-P	03-05-042
388-825-120	AMD-E	03-03-115	391-25-036	NEW	03-03-064	415-104-211	AMD-P	03-05-042
388-825-180	AMD-E	03-03-115	391-25-037	NEW	03-03-064	415-104-215	AMD-P	03-05-042
388-825-205	AMD-E	03-03-115	391-25-051	NEW	03-03-064	415-104-299	AMD	03-06-042
388-825-252	AMD-E	03-03-115	391-25-076	NEW	03-03-064	415-104-3402	AMD	03-06-042
388-825-254	AMD-E	03-03-115	391-25-096	NEW	03-03-064	415-104-385	AMD	03-06-042
388-825-500	NEW-E	03-03-115	391-25-136	NEW	03-03-064	415-108	PREP	03-07-063
388-825-505	NEW-E	03-03-115	391-25-137	NEW	03-03-064	415-108-443	AMD	03-06-042
388-825-510	NEW-E	03-03-115	391-25-197	NEW	03-03-064	415-108-475	AMD	03-06-042
388-825-515	NEW-E	03-03-115	391-25-210	AMD-P	03-07-093	415-108-550	AMD-P	03-05-041
388-825-520	NEW-E	03-03-115	391-25-216	NEW	03-03-064	415-108-560	AMD-P	03-05-041
388-825-525	NEW-E	03-03-115	391-25-216	PREP	03-03-066	415-108-575	NEW-P	03-05-041
388-825-530	NEW-E	03-03-115	391-25-216	REP-P	03-07-093	415-110-443	AMD	03-06-042
388-825-535	NEW-E	03-03-115	391-25-217	NEW	03-03-064	415-110-475	AMD	03-06-042
388-825-540	NEW-E	03-03-115	391-25-396	NEW	03-03-064	415-110-575	NEW-P	03-05-041
388-825-545	NEW-E	03-03-115	391-25-416	NEW	03-03-064	415-111-450	REP-P	03-05-042
388-825-546	NEW-E	03-03-115	391-25-426	NEW-E	03-03-065	415-112-445	AMD	03-06-042
388-825-550	NEW-E	03-03-115	391-25-426	PREP	03-03-066	415-112-480	AMD	03-06-042
388-825-555	NEW-E	03-03-115	391-25-426	NEW-P	03-07-093	434-208-010	PREP	03-07-086
388-825-560	NEW-E	03-03-115	391-25-427	NEW	03-03-064	434-262-010	PREP	03-07-086
388-825-565	NEW-E	03-03-115	391-25-476	NEW	03-03-064	434-262-020	PREP	03-07-086
388-825-570	NEW-E	03-03-115	391-25-496	NEW	03-03-064	434-670-010	NEW	03-06-069
388-825-571	NEW-E	03-03-115	391-35-001	AMD	03-03-064	434-670-020	NEW	03-06-069
388-825-575	NEW-E	03-03-115	391-35-002	AMD	03-03-064	434-670-030	NEW	03-06-069
388-825-576	NEW-E	03-03-115	391-35-026	NEW	03-03-064	434-670-040	NEW	03-06-069
388-825-580	NEW-E	03-03-115	391-35-326	NEW	03-03-064	434-670-050	NEW	03-06-069
388-825-585	NEW-E	03-03-115	391-35-327	NEW	03-03-064	434-670-060	NEW	03-06-069
388-825-590	NEW-E	03-03-115	391-35-346	NEW	03-03-064	434-670-070	NEW	03-06-069
388-825-591	NEW-E	03-03-115	391-35-347	NEW	03-03-064	434-670-080	NEW	03-06-069
388-825-592	NEW-E	03-03-115	391-35-356	NEW	03-03-064	434-670-090	NEW	03-06-069
388-825-600	NEW-E	03-03-115	391-45-001	AMD	03-03-064	446-20-285	AMD	03-05-007
388-850-035	AMD-E	03-03-115	391-45-002	AMD	03-03-064	446-75-010	AMD-P	03-04-070
388-850-045	AMD-E	03-03-115	391-45-056	NEW	03-03-064	446-75-020	AMD-P	03-04-070
388-865-0500	PREP	03-07-041	391-55-001	AMD	03-03-064	446-75-030	AMD-P	03-04-070
388-865-0501	PREP	03-07-041	391-55-002	AMD	03-03-064	446-75-060	AMD-P	03-04-070
388-865-0502	PREP	03-07-041	391-55-200	AMD	03-03-064	446-75-070	AMD-P	03-04-070
388-865-0504	PREP	03-07-041	391-65-001	AMD	03-03-064	446-75-080	AMD-P	03-04-070
388-865-0505	PREP	03-07-041	391-65-002	AMD	03-03-064	458-12-060	PREP	03-03-100
388-865-0510	PREP	03-07-041	391-65-110	AMD	03-03-064	458-12-065	PREP	03-03-100
388-865-0515	PREP	03-07-041	391-95-001	AMD	03-03-064	458-12-070	PREP	03-03-100
388-865-0525	PREP	03-07-041	391-95-010	AMD	03-03-064	458-12-075	PREP	03-03-100
388-865-0530	PREP	03-07-041	392-139	PREP	03-05-093	458-12-080	PREP	03-03-100
388-865-0535	PREP	03-07-041	392-140-908	AMD	03-03-001	458-12-360	PREP	03-03-100
388-865-0540	PREP	03-07-041	392-140-908	AMD-W	03-07-070	458-16-010	REP-P	03-03-099
388-865-0545	PREP	03-07-041	392-140-912	AMD	03-03-001	458-16-011	REP-P	03-03-099
388-865-0546	PREP	03-07-041	392-140-912	AMD-W	03-07-070	458-16-012	REP-P	03-03-099
388-865-0550	PREP	03-07-041	392-142	PREP	03-03-033	458-16-013	REP-P	03-03-099
388-865-0555	PREP	03-07-041	392-143	PREP	03-03-034	458-16-020	REP-P	03-03-099
388-865-0557	PREP	03-07-041	415-02	PREP	03-04-017	458-16-022	REP-P	03-03-099

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458-16-040	REP-P	03-03-099	468-95-070	REP-E	03-03-028	468-95-270	NEW	03-06-053
458-16-060	REP-P	03-03-099	468-95-070	REP-P	03-03-029	468-95-280	NEW-E	03-03-028
458-16-070	REP-P	03-03-099	468-95-070	REP	03-06-053	468-95-280	NEW-P	03-03-029
458-16-079	REP-P	03-03-099	468-95-080	REP-E	03-03-028	468-95-280	NEW	03-06-053
458-16A	AMD-P	03-03-099	468-95-080	REP-P	03-03-029	468-95-290	NEW-E	03-03-028
458-16A-100	NEW-P	03-03-099	468-95-080	REP	03-06-053	468-95-290	NEW-P	03-03-029
458-16A-110	NEW-P	03-03-099	468-95-090	REP-E	03-03-028	468-95-290	NEW	03-06-053
458-16A-115	NEW-P	03-03-099	468-95-090	REP-P	03-03-029	468-95-300	NEW-E	03-03-028
458-16A-120	NEW-P	03-03-099	468-95-090	REP	03-06-053	468-95-300	NEW-P	03-03-029
458-16A-130	NEW-P	03-03-099	468-95-100	REP-E	03-03-028	468-95-300	NEW	03-06-053
458-16A-135	NEW-P	03-03-099	468-95-100	REP-P	03-03-029	468-95-310	NEW-E	03-03-028
458-16A-140	NEW-P	03-03-099	468-95-100	REP	03-06-053	468-95-310	NEW-P	03-03-029
458-16A-150	NEW-P	03-03-099	468-95-110	NEW-E	03-03-028	468-95-310	NEW	03-06-053
458-20-135	AMD-P	03-04-032	468-95-110	NEW-P	03-03-029	468-95-320	NEW-E	03-03-028
458-20-17803	NEW-E	03-04-031	468-95-110	NEW	03-06-053	468-95-320	NEW-P	03-03-029
458-20-185	AMD-E	03-06-016	468-95-120	NEW-E	03-03-028	468-95-320	NEW	03-06-053
458-20-208	AMD	03-07-066	468-95-120	NEW-P	03-03-029	468-95-330	NEW-E	03-03-028
458-20-231	REP-X	03-04-030	468-95-120	NEW	03-06-053	468-95-330	NEW-P	03-03-029
458-20-24003	PREP	03-03-101	468-95-130	NEW-E	03-03-028	468-95-330	NEW	03-06-053
458-40-660	PREP	03-05-084	468-95-130	NEW-P	03-03-029	468-95-340	NEW-E	03-03-028
458-61-100	PREP	03-07-065	468-95-130	NEW	03-06-053	468-95-340	NEW-P	03-03-029
468-06-040	AMD-X	03-04-062	468-95-140	NEW-E	03-03-028	468-95-340	NEW	03-06-053
468-15-010	NEW	03-03-012	468-95-140	NEW-P	03-03-029	468-95-350	NEW-E	03-03-028
468-15-020	NEW	03-03-012	468-95-140	NEW	03-06-053	468-95-350	NEW-P	03-03-029
468-15-030	NEW	03-03-012	468-95-150	NEW-E	03-03-028	468-95-350	NEW	03-06-053
468-15-040	NEW	03-03-012	468-95-150	NEW-P	03-03-029	468-95-360	NEW-E	03-03-028
468-15-050	NEW	03-03-012	468-95-150	NEW	03-06-053	468-95-360	NEW-P	03-03-029
468-15-060	NEW	03-03-012	468-95-160	NEW-E	03-03-028	468-95-360	NEW	03-06-053
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